REVENU QUÉBEC

2022

TRUSTS

GUIDE TO FILING THE TRUST INCOME TAX RETURN

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BY COMPLETING THE TRUST
INCOME TAX RETURN,
YOU ARE HELPING A TRUST
AND ITS BENEFICIARIES
CONTRIBUTE TO THE DEVELOPMENT
OF QUÉBEC SOCIETY THROUGH THE
FINANCING OF PUBLIC SERVICES.

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This guide contains general information on how to complete the *Trust Income Tax Return* (form TP-646-V), hereinafter the "income tax return," for the **2022 taxation year**. The instructions for completing the RL-16 slip are in the *Guide to Filing the RL-16 Slip: Trust Income* (RL-16.G-V).

In this guide, as well as in the income tax return and the forms to be filed with the return:

- the term "trust" means any type of trust or any succession;
- the term "trustee" means a person acting as such, including a liquidator of a succession; and
- the term "testamentary trust" means both a succession and a trust created by will (unless it is necessary to be more specific, in which case the precise term is used).

NOTE
The term "succession" is used in this guide and all related documents instead of the term "estate" because "succession" is the term used in Québec legislation.

The numbers and abbreviations in italics at the end of certain paragraphs refer to sections of the *Taxation Act* (section numbers alone), the *Regulation respecting the Taxation Act* (section numbers containing an "R") and the *Tax Administration Act* (section numbers preceded by "TAA"). The information in this guide does not constitute a legal interpretation of the *Taxation Act* or any other legislation. For more information, contact us at one of the numbers or addresses given at the end of the guide.

Abbreviations used in this guide

ACB	Adjusted cost base
AIIP	Accelerated investment incentive property
AMT	Alternative minimum tax
CCA	Capital cost allowance
CCPC	Canadian-controlled private corporation
CNIL	Cumulative net investment loss
CPP	Canada Pension Plan
CRA	Canada Revenue Agency
DPSP	Deferred profit-sharing plan
FMV	Fair market value
GAAR	General anti-avoidance rule
GRE	Graduated rate estate
NISA	Net Income Stabilization Account
PRPP	Pooled registered pension plan
QDT	Qualified disability trust
QPIP	Québec parental insurance plan
QPP	Québec Pension Plan
QSBCS	Qualified small business corporation share
R&D	Scientific research and experimental development
RDSP	Registered Disability Savings Plan
REIT	Real estate investment trust
RESP	Registered education savings plan
RPP	Registered pension plan
RRIF	Registered retirement income fund
RRSP	Registered retirement savings plan
RSUBP	Registered supplementary unemployment benefit plan
SIFT	Specified investment flow-through
TFSA	Tax-free savings account
UCC	Undepreciated capital cost
VRSP	Voluntary retirement savings plan

Information for persons completing an income tax return for a succession

If you are completing an income tax return for a succession that earned only **retirement income**, **investment income** or **death benefits**, refer to the lines that are preceded by the ♦ symbol on the return. If you are consulting this guide or the *Guide to Filing the RL-16 Slip: Trust Income* (RL-16.G-V), refer to the sections of the guides that are printed on a coloured background. These parts contain information that will be of particular interest for you.

PRINCIPAL CHANGES

Obligation to enter the trust identification number and account number in returns, reports and documents filed

A trust has to enter the identification number from a notice of assessment we issue in its *Trust Income Tax Return* (TP-646-V). If the trust does not have an identification number, it must get one **before** filing its income tax return. It can apply for a number using:

- the new online service in My Account for individuals, My Account for businesses or My Account for professional representatives; or
- form LM-58.1.2-V, *Application for a Trust Identification Number*.

As of 2018, a trust must also enter the trust account number appearing on the federal *Trust Income Tax and Information Return* (form T3RET) in its income tax return or information return. In addition, it must provide its account number to any person (including any related person) or partnership (including a tax shelter) that is required to file an information return in which this number must be entered.

As of March 26, 2021, the trust identification number and account number must be entered in all returns, reports or other documents the trust is required to file under tax legislation.

Failure to provide this information may result in a penalty.

Dividend tax credit – Change to the rate applicable to ordinary dividends

The dividend tax credit rate applicable to the **grossed-up amount** of ordinary dividends for dividends received or deemed received after December 31, 2021, is decreasing from 4.01% to 3.42%.

If the trust receiving eligible or ordinary dividends is a **testamentary trust whose taxation year began in 2021**, use the dividend tax credit rates that apply to eligible and ordinary dividends for 2021.

The gross-up rates for dividends have not been changed.

For more information, see the instructions for lines 326 and 328 of Schedule B in section 5.2.

Health and welfare trusts

A health and welfare trust is a trust established by an employer for the purpose of providing health and welfare benefits to its employees. As the tax treatment of such a trust is not explicitly set out in the federal *Income Tax Act*, we have adopted the administrative policy of the Canada Revenue Agency for this type of trust to the end of 2021.

As of 2022, health and welfare trusts that were established before February 28, 2018, and were not converted into employee life and health trusts or wound up are subject to the normal income tax rules for trusts.

Transitional rules are in place for winding-up and conversion to employee life and health trusts.

For more information, see section 1.7.

Mandatory disclosure

Transactions such as confidential transactions, transactions involving conditional remuneration or contractual coverage and specified transactions must be disclosed, subject to certain conditions.

As of December 18, 2021, any transaction that is intended to obtain a refundable tax credit is an excluded transaction for the purposes of the definition of "transaction involving conditional remuneration." As a result, this type of transaction no longer needs to be disclosed on form TP-1079.DI-V, *Mandatory Disclosure of a Confidential Transaction or a Transaction Involving Conditional Remuneration or Contractual Coverage*.

The change applies to any application for a refundable tax credit made using the form containing prescribed information with a filing deadline after December 17, 2021.

For more information, see section 2.1.

Additional information about the trust

For taxation years ending after December 30, 2023, a trust that is resident in Canada (other than a trust created by law or by a judgment) must provide additional information about each person who, over the course of the year, is:

- a trustee;
- a beneficiary;
- a settlor;
- a person who can exert control over the decisions made by the trustee with respect to the allocation of income or capital from the trust under the terms of the trust deed or a related agreement.

Due to this new requirement, certain trusts that were previously not required to file a tax return will now be required to file one.

However, the following trusts are not required to provide such information:

- trusts that have existed for less than three months;
- trusts that hold property with a FMV of less than $50,000 throughout the taxation year, if the only assets they hold over the year are one or more of the following:
  - cash,
  - certain government debt securities,
  - a share, debt or right listed on a designated stock exchange,
  - a share of the capital stock of a mutual fund corporation,
  - a share of a mutual fund trust,
  - an interest in a related segregated fund trust,
  - an interest as a beneficiary under a trust whose units are all listed on a designated stock exchange;
- trusts that are required under rules of professional conduct or the laws of Canada or a province to hold funds for the purpose of any activity that is regulated under those rules or laws, provided the trusts are not administered as separate trusts for a particular client or particular clients (an exception is made for general trust accounts held by an attorney, but not for specific client accounts);
- trusts that are registered charities;
- trusts that qualify as non-profit organizations;
- mutual fund trusts;
- segregated fund trusts;

- trusts whose units are all listed on a designated stock exchange;
- master trusts;
- GREs;
- QDTs;
- employee life and health trusts;
- certain government funded trusts;
- trusts established under a DPSP, a PRPP, an RDSP, an RESP, an RPP, a RRIF, an RRSP or a TFSA, or governed by such a plan;
- cemetery care trusts and trusts governed by an eligible funeral arrangement.

If a trust fails to file the income tax return with the required additional information by the deadline, it is liable to a penalty of $1,000 and, starting on the second day, an additional penalty of $100 per day until the return with the additional information is filed, to a maximum of $5,000.

1 GENERAL INFORMATION

The term "trust" means any type of trust or any succession; the term "trustee" means a person acting as such, including a liquidator of a succession; and the term "testamentary trust" means both a succession and a trust created by will (unless it is necessary to be more specific, in which case the precise term is used).

Liquidator of a succession

You do not have to file the *Trust Income Tax Return* (form TP-646-V) for a succession in the following situations:

- The deceased person's property is distributed immediately after the person's death or the succession did not earn any income before the distribution of the property. However, you must give each beneficiary a statement showing their share of the property of the succession.
- The succession's only income is a death benefit from the Québec Pension Plan (QPP) or the Canada Pension Plan (CPP) that is included in the income of one or more beneficiaries of the succession.

If a succession is wound up in its first taxation year, the beneficiaries can include in their income tax returns the income earned before the winding-up, based on their share of the succession's income.

1.1 Taxation year of a trust

1.1.1 Inter vivos trust

The taxation year of an inter vivos trust corresponds to the calendar year.

A **mutual fund trust**, however, can elect to have its taxation year end on December 15 instead of December 31 (see the information about mutual fund trusts in section 1.7).

1.1.2 Testamentary trust

The taxation year of a testamentary trust that is a graduated rate estate (GRE) must correspond to the period for which the trust's books are closed for the purpose of making an assessment under federal legislation.

A GRE can have a taxation year that does not correspond to the calendar year. However, the taxation year is deemed to end on the day the succession ceases to be a GRE. The end of any subsequent taxation year will correspond to the end of the calendar year.

If a GRE is wound up, the last taxation year of the trust ends on the day all of the property of the trust is distributed (the date entered on line 5b of the return must therefore correspond to the wind-up date entered on line 11 of the return).

The taxation year of other types of testamentary trusts must correspond to the calendar year. If a testamentary trust that is not a GRE is wound up during the year, its taxation year ends on December 31. The trust must file the final income tax return within 90 days after the end of the taxation year.

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1.2 Obligation to file the *Trust Income Tax Return* (form TP-646-V)

As a rule, a trust subject to Québec income tax for a given taxation year must file form TP-646-V, *Trust Income Tax Return.*

A trust subject to Québec income tax is a trust that is resident in Québec or carries on economic activities in Québec (for example, operating a business in Québec or disposing of a taxable Québec property).

As a rule, we consider that a trust is resident in Québec or in Canada if the trustee is resident in Québec or in Canada. However, we may consider that a trust is resident in Québec even if the trustee is not resident in Québec, but it is shown that a large portion of the control and administration of the trust's property is entrusted to a person, other than the trustee, who is resident in Québec.

NOTE
Where certain legislative provisions apply only if the trust was resident in Canada throughout the year, the trust is deemed to have met this condition provided it was resident in Canada immediately before it ceased to exist.

1.2.1 Resident trust or deemed resident trust

All **resident trusts** and **deemed resident trusts** are subject to Québec income tax.

The term "resident trust" means any trust described in section 1.7 that is subject to Québec income tax for a given taxation year because it is in one of the following situations:

- It is resident in Québec at the end of the year.
- It is resident in Canada, outside Québec, at the end of the year and it operates a business in Québec during the year.

For information on deemed resident trusts, see section 1.2.2.

As a rule, a resident trust or a deemed resident trust must file an income tax return for every taxation year.

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A resident trust or a deemed resident has to file an income tax return even if it has no income tax payable in the following situations:

- The trust has no income tax payable for the year solely because it carried forward a loss from a previous year.
- The trust has to report a capital gain on property it sold in the year.
- The trust granted a beneficiary a benefit valued at more than $100 for upkeep and maintenance expenses and taxes on property the beneficiary used (for more information, see the instructions for line 74).
- The trust received income, gains or benefits intended for a beneficiary who is an individual resident in Québec or a corporation that has an establishment in Québec, and the total income shown on line 63 of its return is more than $500 **or** the income attributable to the beneficiary is more than $100.
- The trust is a trust other than an excluded trust (see the definition in Part 6) and:
  - in calculating its income, it is deducting an amount allocated to a beneficiary (i.e. any of the amounts listed in points 1, 2, 4 and 5 of section 5.3.1) that is more than $100, whether the beneficiary is resident in Québec or elsewhere;
  - it is resident in Québec on the last day of the taxation year and the total of the cost amounts of the property it owns is more than $250,000; **or**
  - it is resident outside Québec on the last day of the taxation year and the total of the cost amounts of the property it owns at some time in the year and uses in operating a business in Québec is more than $250,000.

NOTE

- A trust that is normally exempted from filing an income tax return may have to file one (see section 1.2.5).
- A trust (other than an excluded trust) that is resident in Canada, outside Québec, at the end of a taxation year and that, at some time in the year, was the owner of a specified immovable (or a member of a partnership that owned such an immovable) must file form TP-646.1-V, *Trust Information Return*.
- For taxation years ending after December 30, 2021, testamentary trusts and successions other than GREs are no longer considered to be excluded trusts and are therefore required to file an information return.

851.25, 905.1, 921.1, 997, 1000, 1087, 1089; 1086R57, 1086R69

1.2.2 Deemed resident trust

A non-resident trust, other than an **exempt foreign trust** (see the definition in Part 6), is deemed to be a resident trust for a particular taxation year if, at the end of the year or immediately before the trust ceases to exist, it has **a resident contributor** or both **a resident beneficiary** and **a connected contributor** (see the definition of these terms in Part 6).

The contributor to a non-resident trust is a person that makes a contribution of property to the trust by means of a loan or transfer, other than an arm's length transfer (see the definition in Part 6). However, a person may also be considered to be a contributor to a trust if, as applicable:

- the loan or transfer (other than an arm's length transfer) of property by the person or the partnership of which the person is a member is to another person or partnership in circumstances where the loan or transfer generates, at that time, either an increase in the FMV of one or more properties held by the trust or a decrease in a known or contingent liability of the trust;
- the loan of property or the transfer of **restricted property** (see the definition in Part 6), other than an arm's length transfer, by the person or the partnership of which the person is a member is to another person or partnership and, at that time or at a later time, the trust holds property whose FMV is derived, in whole or in part, directly or indirectly, from property held by the other person or partnership.

If a non-resident trust is considered to be a revocable or blind trust for property it received, either directly or indirectly, from an individual resident in Québec or a corporation that has an establishment in Québec, the transfer or loan of the property to the trust is deemed to be a transfer or loan of restricted property. The trust may then be subject to the presumption of residency. See section 3.2.2 for more information about this type of trust.

The presumption of residency does not apply to a non-resident trust that is designated as a qualified disability trust (QDT). For more information about this type of trust, see "Qualified disability trust" in section 1.7.

595(f), 596

If the presumption of residency applies to a non-resident trust for a taxation year, the trust is deemed to be resident in Canada throughout the year. This presumption applies to:

- the calculation of income tax and the foreign tax credit (see the note below);
- the tax treatment further to certain elections made in the federal income tax return (see sections 5.1.3, 5.3.2 and 5.3.3);
- certain rules, such as the presumption concerning trust income for the benefit of a beneficiary under 21 years of age and the designation of certain income or capital gains allocated to the beneficiaries.

NOTE

- If a resident trust pools its income to calculate the foreign income tax payable in the country where it is resident for a given taxation year, it must not include its income from Canadian sources.
- All foreign income of a deemed resident trust is deemed to be from the foreign country in which the trust is resident at the end of the taxation year or immediately before the trust ceased to exist (if it ceased to exist in the year), and all foreign income tax paid by the trust for the year is deemed to have been paid to the government of that country.

Such a trust will therefore have to file the *Trust Income Tax Return* (form TP-646-V) and RL-16 slips if it has a resident contributor or both a resident beneficiary and a connected contributor at the end of the taxation year. The trust and each resident contributor or beneficiary are solidarily liable in matters pertaining to the trust's fiscal rights and obligations.

The two **elections** listed below can be made to decrease the tax burden of a deemed resident trust.

Election to create a non-resident portion trust

The non-resident portion of a deemed resident trust corresponds to all property of the trust that is not part of the resident portion of the trust (see the definition in Part 6).

If a trust holds a non-resident portion in a taxation year in which the trust is a deemed resident trust, it can make an election, under federal legislation, to have the non-resident portion of the trust deemed to be held by another trust that is an inter vivos trust referred to as a "non-resident portion trust."

The election takes effect as of the first taxation year in which the deemed resident trust holds a non-resident portion.

As of that time, the following conditions apply to the trusts:

- The non-resident portion trust continues to exist until the deemed resident trust:
  - no longer has a resident contributor or a resident beneficiary;
  - becomes an exempt foreign trust;
  - ceases to exist; or
  - becomes resident in Canada.
- The terms that apply to the deemed resident trust also apply to the non-resident portion trust.
- The trustees of the deemed resident trust are the trustees of the non-resident portion trust.
- The non-resident portion trust is deemed to have neither a resident contributor nor a connected contributor.

The first taxation year of a non-resident portion trust corresponds to the taxation year of the deemed resident trust as of which the election applies.

Election to be an electing contributor

The resident contributor of a deemed resident trust can make an election, under federal legislation, to be an electing contributor (see the definition in Part 6). If a deemed resident trust has an electing contributor at the end of its taxation year (or at the time immediately before the trust ceases to exist), the portion of its income (calculated after any losses from other years are carried over) that is proportional to the total value of the electing contributor's contribution to the trust up to that time must be included as Canadian property income in calculating the contributor's income for the taxation year in which the trust's taxation year ends.

You must enter this property income on an RL-16 slip completed in the name of the contributor. You can deduct an amount equal to the property income amount on line 81 of the trust's income tax return.

If the trust paid foreign income tax on the income, it may make a designation in favour of the contributor to have the income deemed to be either foreign business income or foreign non-business income, as the case may be. The maximum income that may be designated must correspond to the trust's income from that source. The trust can therefore make another designation to have the foreign income tax paid on the income deemed to have been paid by the contributor.

The election to be an electing contributor is effective with respect to the trust and the contributor as of the contributor's taxation year that includes the moment of the election, or as of the taxation year that ends before this moment, and for all subsequent years.

1.2.3 Non-resident trust

A trust that was not resident in Canada at any time in a taxation year is subject to Québec income tax if, at some time in the taxation year, one of the following conditions is met:

- The trust carried on a business in Québec.
- The trust disposed of taxable Québec property.
- The trust realized a taxable capital gain on taxable Québec property (by including in its income a provision deducted from a capital gain in the previous year).
- The trust was a specified trust that owned a specified immovable or that was a member of a partnership that owned such an immovable (see "Specified immovable held by a non-resident trust" below).
- The trust owned property that it used in carrying on a business in Québec, and the total of the cost amounts of its property exceeded $250,000.

Such a trust must file an income tax return even if it has no income tax payable for the year. However, a trust that carried on a business in Québec (and that does not meet any of the other conditions above) will not be required to file an income tax return if it has no income tax payable for a year, unless it has no income tax payable solely because it carried forward a loss sustained in a previous year.

26, 1000

NOTE
A non-resident trust may be deemed to be a resident trust, and may therefore be required to file an income tax return. See the explanations in section 1.2.2.

Specified immovable held by a non-resident trust

An inter vivos trust that is not tax-exempt and that is not resident in Canada at any time in the year (hereinafter referred to as a "specified trust") must pay income tax at a rate of 4.47% on the net income derived from the rental of a specified immovable (including the trust's share of such income from a partnership of which the trust is a member, if applicable). For more information, see "Specified trust" in section 1.7 and section 5.6.

If such a trust becomes resident in Canada at some time in the year, any specified immovable that it owned at that time is deemed to have been disposed of immediately before it became resident in Canada for proceeds equal to the FMV of the immovable at that time. For more information, see section 5.1.2.2.

1.2.4 Income tax instalments

We send form TPZ-1026.F-V, *Instalment Payments Made by a Trust*, to trusts that have to pay income tax instalments to notify them of the amount of the instalments.

A trust (with the exception of a GRE) must pay income tax instalments for the taxation year if:

- it estimates that its net income tax payable for the **year** will exceed $1,800; and
- its net income tax payable for **one of the two previous years** exceeded $1,800.

If the trust's principal source of income is farming or fishing, it must pay a single income tax instalment for the taxation year if:

- it estimates that its net income tax payable for the **year** will exceed $1,800; and
- its net income tax payable for **the two previous years** exceeded $1,800.

The net income tax payable for a given year corresponds to the income tax payable for the year minus the total income tax withheld and the refundable tax credits obtained for the year.

Quarterly instalments must be made by March 15, June 15, September 15 and December 15 of the year. Each instalment must be equal to a quarter of the estimated income tax payable for the year or of the income tax payable for the previous year. However, if a trust's principal source of income is farming or fishing, the trust must pay a single instalment by December 31 of the year. The instalment must be equal to two-thirds (2/3) of the estimated income tax payable for the year or of the income tax payable for the previous year.

If the trust wants to calculate the amount of its instalment payments itself, it can get form TP-1026.F-V, *Calculation of Instalment Payments to Be Made by Trusts*, from our website. However, it may have to pay interest if it calculated the amount of its instalment payments itself and the amount turns out to be insufficient.

Note that if the trust is required to make instalment payments for 2023, we will charge interest, compounded daily, on any payment (or portion thereof) that is not made by the required date.

SIFT trust

A SIFT trust (see "Specified investment flow-through trust (SIFT trust)" in section 1.7) must calculate and make instalment payments of income tax as if it were a public corporation. Accordingly, the SIFT trust must make instalment payments on a monthly basis, by the last day of each month, if its estimated income tax payable for the year and its income tax payable for the previous year both exceed $3,000.

1025-1027

1.2.5 Exemption from filing the trust income tax return

Certain trusts are exempt from filing the *Trust Income Tax Return* (form TP-646-V).

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This is the case for the following trusts:

- a trust established under an RRSP or a RRIF, except if it must pay income tax under Part I of the *Taxation Act*, such as:
  - income tax on income derived from the operation of a business or from a non-qualifying investment, or on the capital gain derived from the disposition of such an investment, or
  - income tax on the taxable income for any taxation year after the year that follows the year of death of the last annuitant of the plan or fund (the trust must file an RL-2 slip for any amount paid as a tax-paid amount);

905.1, 919-921.2, 961.12-961.16.1

- a trust established under a TFSA, except if the trust must pay income tax on income derived from the operation of a business or from a non-qualifying investment, or on the capital gain derived from the disposition of such an investment (the trust must file RL-1 slips for persons to whom it pays investment income earned following the death of the account holder);

> NOTE
>
> **As of 2019**, the TFSA holder, the trust and its trustee are solidarily liable for the payment of the income tax on the income from the operation of a business by a trust established under a TFSA. The solidary liability of a trustee of a TFSA at any time in respect of business income earned by the TFSA will be limited at all times to the property held in the TFSA at that time plus the amount of all the distributions of property from the TFSA as of the date on which the notice of assessment was issued.

935.21-935.23, 935.24.1

- a trust established under a profit-sharing plan (the trust must nonetheless file RL-25 slips);

855, 859, 860, 863-868

- a trust established under a DPSP, an RPP or an RSUBP;

880, 963, 998(d)

- a trust established under a PRPP (or a VRSP), **except** if the trust must pay income tax on income derived from the operation of a business (see the note below);
- a retirement compensation arrangement (RCA) trust, **except** for the portion that constitutes an employee benefit plan;

209.1, 209.3, 890.5, 890.8, 965.0.20, 965.0.21

- a trust established under an RESP, **except** if a special tax is payable under Part III.15.1 of the *Taxation Act* (such a trust must nonetheless file RL-1 slips for accumulating income payments and educational assistance payments). **Since March 23, 2017**, the trust has been required to pay income tax on an amount that would correspond to its taxable income for the year under Part I of the *Taxation Act* if its income or losses were derived solely from its non-qualifying investments and its capital gains or losses were derived solely from the disposition of non-qualifying investments;

901, 901.1, 904, 904.1, 1129.66.2, 1129.66.4-1129.66.6

- a trust established under an RDSP, **except** if income tax is payable under Part I of the *Taxation Act*, for example, due to the operation of a business (such a trust must nonetheless file RL-1 slips for disability assistance payments). **Since March 23, 2017**, the trust has been required to pay income tax on an amount that would correspond to its taxable income for the year under Part I of the *Taxation Act* if its income or losses were derived solely from its non-qualifying investments and its capital gains or losses were derived solely from the disposition of non-qualifying investments;

905.0.9-905.0.12, 905.14

- an environmental trust maintained to finance the reclamation in Québec of a site used principally as a waste disposal site, for the operation of a mine or pit from which was extracted clay, peat, sand, shale or aggregate materials, or for the operation of a pipeline (such a trust that is resident in Québec at the end of the taxation year must nonetheless file form TP-1129.53-V, *Income Tax Return for Environmental Trusts*);

IMPORTANT

If a trust ceases to be an environmental trust:

- its taxation year is deemed to end immediately before that time;
- it is deemed to have disposed of all of its property at its FMV immediately before that time and to have reacquired it immediately after that time at a cost equal to the proceeds of disposition; and
- it ceases to be exempt from the requirement to pay income tax under Part I of the *Taxation Act*.

692.3, 736, 736.0.2, 736.0.3.1, 999.1, 1129.51-1129.54

- a trust governed by an eligible funeral arrangement or a cemetery care trust (the trust must nonetheless file an RL-3 slip for any amount to be included in the income of a beneficiary).

979.21

NOTE

The capital gain (or loss) derived from the disposition of property used in the operation of a business is deemed to be business income (or loss). No deduction can be claimed on line 81 for the portion of income paid or payable to a beneficiary.

The following entities are also exempt from filing the *Trust Income Tax Return* (form TP-646-V):

- a registered charity, which must nonetheless file form TP-985.22-V, *Information Return for Registered Charities and Other Donees*;
- a tax-exempt entity that is an agricultural organization, a board of trade (chamber of commerce), or a non-profit organization (club, society or association) that is not considered to be a charity.

However, the latter must file form TP-997.1-V, *Information Return for Tax-Exempt Entities,* if any **one** of the following apply:

- the total amount of taxable dividends or the total amount of interest, rentals or royalties that the entity received or was entitled to receive during its fiscal period was more than $10,000;
- at the end of the previous fiscal period, the entity's total assets, determined according to generally accepted accounting principles, exceeded $200,000; or
- the entity was required to file form TP-997.1-V for a previous fiscal period.

985.23, 995, 996, 997.1

1.3 Filing requirements

1.3.1 Filing deadline

As a trustee, you are responsible for filing the *Trust Income Tax Return* (form TP-646-V).

You must file the return along with the required documents (see section 1.3.2) **within 90 days after the end of the trust's taxation year**. You must also pay any income tax payable and remit copies of the RL-16 slips to the beneficiaries within the same time period.

You can use form TPZ-1026.0.1.F-V, *Payment of Balance – Trusts*, to pay the balance due for 2022 or any other taxation year.

Trusts that file the return late are liable to a **penalty** of 5% of the income tax that remains unpaid on the filing deadline, and to an **additional penalty of** 1% of the unpaid income tax for each full month the return is late, to a maximum of 12 months.

Note that if the filing deadline falls on a Saturday, Sunday or statutory holiday, the deadline is extended to the following business day.

When determining the amount of unpaid tax for the purposes of calculating a penalty, we take into account any losses carried forward from a previous taxation year (lines 91 and 92).

Public trusts – Obligation to post information online

Public trusts must provide certain information in the prescribed form and by the prescribed deadline, including allocations and designations of income to beneficiaries and distributions of capital in their favour. Such information must be posted on the website of the Canadian Depository for Securities (cds.ca) no later than 60 days after the end of the taxation year concerned.

However, if the trust meets the requirements to be considered a **public investment trust**, it must post such information no later than 67 days after the end of the calendar year in which the taxation year ended.

If the trust is a public trust, check box 22 of the return.

1045; 1086R57

1.3.2 Documents to file

All documents that apply to the trust's situation must accompany the trust income tax return. The accompanying documents will vary depending on whether the return filed is a computer-generated return or a return completed on paper. If the return is filed using software, refer to the guide entitled *Information for Software Users: Trusts* (IN-416.A-V) to find out which documents must be submitted. If the return is filed on paper, please submit the following documents, where applicable:

- the schedules of the return:
  - Schedule A, *Taxable Capital Gains and Designated Net Taxable Capital Gains*,
  - Schedule B, *Investment Income, Gross-Up of Dividends Not Designated and Adjustment of Investment Expenses*,
  - Schedule C, *Summary of Allocations and Designations*,
  - Schedule D, *Carry-Back of a Loss*,
  - Schedule E, *Income Tax on the Taxable Distributions Amount and Calculation of Eligible Dividends to Be Designated*,
  - Schedule F, *Income Tax Payable by a Specified Trust for a Specified Immovable,*
  - Schedule G, *Additional Information: Trust Resident in Québec That Owns a Specified Immovable*;
- certain forms, such as:
  - TP-128.F-V, *Income Earned by a Trust From the Rental of Immovable Property*,
  - TP-1086.R.23.12-V, *Costs Incurred for Work on an Immovable*,
  - TP-274.F-V, *Designation of Property as a Principal Residence of a Personal Trust*,
  - TP-668.1-V, *Taxable Capital Gains of a Trust That Give Entitlement to a Deduction*,
  - TP-671.9-V, *Information Return of the Beneficiary of a Designated Trust*,
  - TP-772-V, *Foreign Tax Credit*,
  - TP-776.42.F-V, *Alternative Minimum Tax of a Trust*,
  - TPZ-1179-V, *Logging Operations Return*,
  - TP-1079.DI-V, *Mandatory Disclosure of a Confidential Transaction or a Transaction Involving Conditional Remuneration or Contractual Coverage*,
  - TP-80.1-V, *Calculation of Business or Professional Income, Adjusted to December 31*,
  - TP-750-V, *Income Tax Payable by a Trust Resident in Québec That Carries On a Business in Canada, Outside Québec, or by a Trust Resident in Canada, Outside Québec, That Carries On a Business in Québec*,
  - TP-1129.64-V, *Special Tax Relating to a Registered Education Savings Plan*,
  - TP-768.1-V, *Recovery Tax: Qualified Disability Trust*,
  - TP-163.1-V, *Interest Paid on a Loan Taken Out on a Life Insurance Policy*,
  - TP-653-V, *Deemed Sale Applicable to Certain Trusts*;
  - TP-1031.1-V, *Election by a Trust to Pay in Instalments the Income Tax Resulting From a Deemed Sale Applicable to Certain Trusts*;
  - TP-1033.18-V, *Election to Defer the Payment of Income Tax Resulting From the Deemed Disposition of a Trust's Interest in a Qualified Public Corporation*,
  - TP-726.30-V, *Income Averaging for Forest Producers;*
- all RL slips and other information slips received by the trust;
- all receipts for donations and gifts, and, if applicable, the following documents:
  - form TPF-712.0.1-V, *Certificate of Disposition of Cultural Property*, issued by the Conseil du patrimoine culturel du Québec,
  - form T871, *Cultural Property Income Tax Certificate*, issued by the Canadian Cultural Property Export Review Board, or the notice issued by the Conseil du patrimoine culturel du Québec,
  - form TPF-712.0.2-V, *Certificate for a Gift of Land or a Servitude with Ecological Value*, issued by the Ministère de l'Environnement et de la Lutte contre les changements climatiques;

- the FMV certificate issued by the Ministère de la Culture et des Communications;
- the FMV certificate issued by the Ministère de l'Environnement et de la Lutte contre les changements climatiques;
- the certificate issued to a **trust that is a certified forest producer** under the *Sustainable Forest Development Act* and that is asking to average a portion of the income derived from a private forest;
- copies of the RL-16 slips (see "RL-16 slips" below) issued by the trust, regardless of whether they were submitted online (in an XML file), by mail or by other means (on paper);
- a copy of one of the following documents, if the trust is filing the return for the first time and such a document has not already been sent:
  - the will, accompanied by a list of the assets at the time of death (see the note below),
  - the trust deed,
  - the document confirming the trust's existence, in the case of a deemed trust;
- proof that an election (for example, the election concerning the portion of the income or the capital gain paid or that became payable in the year to a beneficiary or the election concerning the portion of the accumulating income allocated to a preferred beneficiary) was filed with the CRA (see sections 5.3.2 and 5.3.3 as well as the definition of "preferred beneficiary" in Part 6).

NOTE

- If there is no testamentary provision designating a liquidator or the designated liquidator does not want to or cannot fulfil their responsibilities in respect of a succession, you must enclose form LM-14.1-V, *Designation of a Liquidator by the Heirs*, with the succession's first income tax return.
- If the trust fails to send us, by the prescribed deadline, a copy of any document filed with the CRA, it will be liable to a **penalty** of $25 per day, up to $2,500.

21.4.7

The schedules and forms are generally updated every year. If you are required to file a return for a given taxation year (for example, 2023) before the appropriate version of the documents becomes available, you can complete the version for the previous taxation year (that is, 2022), taking into account any new tax measures in effect for 2023 and replacing 2022 with 2023 at the top of the return and each schedule. If you are filing a return for 2022 or for a previous taxation year, you must complete the version of the return for the year concerned (other tax measures may have been introduced since then). You can print out the version you need from our website (revenuquebec.ca) or order it online or by telephone.

RL-16 slip

If the trust is required to file an income tax return, it must also file an RL-16 slip for each beneficiary (including beneficiaries not resident in Québec) to whom it allocated a capital gain or income (see points 1 through 5 of section 5.3.1).

It is not necessary to file an RL-16 slip for a given beneficiary if the amount of income to be allocated to the beneficiary does not exceed $100. However, the beneficiary must be informed of the amount allocated, since the beneficiary is required to report any amount allocated, even if no RL slip was issued.

Certain trusts must file other types of RL slips rather than RL-16 slips (see the information on employee trusts and employee benefit plans in section 1.7).

A trust resident in Canada, outside Québec, at the end of a taxation year must file an RL-16 slip for each beneficiary resident in Québec to whom it allocated a capital gain or income, even if it was not required to file an income tax return for that taxation year. In this case, only Schedule C needs to be completed and enclosed with the RL-16 slip.

Make sure you always use the version of the RL-16 slip that corresponds to the version of the income tax return in effect for the taxation year concerned. For example, you must use the 2022-10 version of the RL-16 slip when filing a return for the 2022 taxation year or with the return filed for 2023 if the 2023 version of the RL-16 slip is not yet available.

You should always consult the version of the *Guide to Filing the Trust Income Tax Return* (TP-646.G-V) and the *Guide to Filing the RL-16 Slip* (RL-16.G-V) for the taxation year concerned.

You have to include the trust's identification number and account number only on the copy of the RL-16 slip sent to us. Do not include them on the copy you send to the trust's beneficiaries. If the numbers are not provided, the trust is liable to penalties.

Where to send the documents

The return, schedules, forms and related documents must be sent to us on paper, by mail or by other means, at the address below that is closest to the trust's place of residence:

- 3800, rue de Marly, Québec (Québec) G1X 4A5
- C. P. 3000, succursale Place-Desjardins, Montréal (Québec) H5B 1A4

1.3.3 Format of the trust income tax return

The *Trust Income Tax Return* (form TP-646-V) is a prescribed form that can be provided to you on paper. You can also print it from our website.

Another option is to use the fillable PDF version, which you can print once it is completed.

To file a computer-generated copy of the trust income tax return, you must get authorized software from a software developer. We suggest that you consult the guide *Information for Software Users* (IN-416.A-V).

For more information on filing RL-16 slips, refer to the *Guide to Filing RL-16 Slips: Trust Income* (RL-16.G-V).

1.4 Reassessments

We examine the trust income tax return, schedules and forms received, then issue a notice of assessment.

However, we may review the return and issue a notice of reassessment within:

- three years (four years in the case of a mutual fund trust) after the later of the following dates:
  - the mailing date of the original notice of assessment or of the notification that no income tax was payable for the taxation year,
  - the year the return is filed;
- six years (seven years in the case of a mutual fund trust) after the later of the aforementioned dates, if the trust requests the carry-back of certain deductions or changes the amount of such a carry-back (such as if the trust completes Schedule D to request the carry-back of a net capital loss or a non-capital loss).

For taxation years ending after October 2, 2016, we may issue a notice of reassessment after the expiry of the normal reassessment period if the trust (or a partnership of which the trust is a member) does not inform us of the disposition of its immovable property in its income tax return filed for the year the disposition occurred (or in the information return of the partnership, where applicable).

We may suspend or extend the prescription period for issuing a notice of reassessment in the cases described below.

Formal demand related to the general anti-avoidance rule (GAAR)

If a notice of reassessment is issued under the GAAR to a trust that is the subject of a formal demand concerning unnamed persons, the prescription period for issuing such a notice is suspended:

- as of the day the judge granted the authorization to send the formal demand if the application for authorization was filed with a judge of the Court of Québec after November 10, 2017, but before July 11, 2018;
- as of the day the application for authorization to send the formal demand was filed if the application was filed with a judge of the Court of Québec after July 10, 2018.

Additional provision for the suspension of the prescription period

If, after July 10, 2018, we send a formal demand for information or documents to a named person or if we file an application for an order with a judge of the Court of Québec, the prescription period for issuing a notice of reassessment is suspended as of the earliest of the following dates, regardless of whether the information or documents are held outside Canada:

- the date the formal demand is notified by registered mail or by personal service; or
- the date the application for an order is made.

Non-resident persons not dealing at arm's length with a trust

If losses are carried back as part of transactions involving a non-resident who is not dealing at arm's length with a trust, the three-year period for issuing a notice of reassessment is extended by three years as of the date the losses are carried back to a previous year.

This measure applies to a notice of reassessment that concerns the adjustment to the carry-back of a loss if:

- the notice is issued for a taxation year as a consequence of a transaction involving a trust and a non-resident person who is not dealing at arm's length with the trust;
- the notice reduces the loss that the trust can carry back for the taxation year; and
- all or part of the loss was carried back to the previous taxation year.

This measure applies to any taxation year that ends **after February 26, 2018**, and to which the trust carries back a loss.

Request for an adjustment and refund

If you wish to make changes to a trust income tax return that has already been filed, complete form TP-646.R-V, *Request for an Adjustment to a Trust Income Tax Return*. You are not required to file a new income tax return for the trust. However, if the requested adjustment changes the allocation of income to the trust's beneficiaries, you must enclose with the form an amended Schedule C and amended RL-16 slips.

If, after processing a request for an adjustment, a reassessment results in the reduction of the trust's balance due and entitles the trust to a refund of income tax, interest or penalties, we must grant the refund if the request was submitted to us within:

- three years (four years in the case of a mutual fund trust) after the end of the taxation year concerned; or
- six years (seven years in the case of a mutual fund trust) after the end of the taxation year concerned, if the trust requests the carry-back of certain deductions or changes the amount of such a carry-back.

In certain cases, we have the discretionary power to issue a refund without taking into account the above time periods. We will generally accept a request for an adjustment submitted to us within six years (eight years in the case of a mutual fund trust) after the end of the taxation year concerned.

Only a GRE can request a refund after the expiry of the prescribed period, provided the adjustment request is submitted before the end of the 10th calendar year after the taxation year concerned. For example, if the taxation year concerned is 2012, you have until the end of the 2022 calendar year to request an adjustment. However, a testamentary trust can request an adjustment for taxation years ended before December 31, 2015.

We may not issue a refund if the request for an adjustment aims to increase a deduction, where the trust initially elected not to claim the maximum amount allowed. We will also not issue a refund if the request is made for retroactive tax planning purposes.

1010, 1051

1.5 Registers and supporting documents

Registers must be kept by any trust that carries on a business or is required to deduct, withhold or collect an amount under a fiscal law.

Regardless of the data-storage medium used, **registers and supporting documents** include:

- the trust deed;
- the will or declaration of heredity, together with a list of the assets at the time of death;
- invoices, receipts and other documents substantiating the information that is or should be entered in a register;
- any document that brings together information for accounting, financial, fiscal or legal purposes, such as the general journal, special journals, and the inventory of property, drawn up in the prescribed manner.

Registers and supporting documents must be kept for a period of **six years after the end of the last taxation year to which they apply**, or, in the case of an income tax return filed after the prescribed deadline, for a period of **six years after the date on which the return for the year in question was filed**.

If registers and supporting documents are kept on an electronic or computer medium, they must be kept in an intelligible form on the same medium for the same period. Moreover, the trust must take all necessary measures to ensure and maintain their integrity throughout their life cycle.

Any trust that claims a tax relief (deduction in the calculation of income, tax exemption for income, tax credit, etc.) must keep the **supporting documents** for the claim.

Registers and supporting documents must be kept more than six years if the trust filed a notice of objection, a contestation or an appeal under tax legislation. In such a case, the trust must keep the documents necessary for the review of the objection, contestation or appeal until the deadline for filing a contestation under sections 93.1.10 and 93.1.13 of the *Tax Administration Act* expires, until the date the judgment is rendered on the contestation or, where applicable, until any other deadline for bringing an appeal expires or until judgment on such an appeal is rendered.

In all cases, the Minister of Revenue of Québec may authorize in writing that the documents be destroyed before this time period has expired.

TAA 1.0.1, TAA 34 ff.

1.6 Certificate authorizing the distribution of property

A trustee who is liquidating a trust must notify us that they intend to distribute the trust's property to the beneficiaries and get a certificate authorizing them to proceed with the distribution. To get the certificate, the trustee has to file form MR-14.B-V, *Notice Before Distribution of Property*.

The liquidator of a succession has to file form MR-14.A-V, *Notice Before Distribution of the Property of a Succession*, before distributing the deceased person's property. If the succession is required to file the *Trust Income Tax Return* (form TP-646-V), the liquidator must also file form MR-14.A-V before distributing the post-death income.

Forms MR-14.A-V and MR-14.B-V can be printed from our website.

You can file form MR-14.A-V at the same time as the income tax returns for the type of distribution for which you are requesting an authorization certificate. In other words, to obtain a certificate authorizing you to:

- distribute the deceased person's property, you must file the deceased person's income tax return(s) (form TP-1-V) for the year of death;
- distribute the succession's post-death income, you must file the *Trust Income Tax Return* (form TP-646-V) for the taxation year(s) beginning after the death and ending on the date the succession was liquidated;
- distribute the deceased person's property and the succession's post-death income, file the deceased's income tax return(s) (form TP-1-V) for the year of death, as well as form TP-646-V for the taxation year(s) beginning after the death and ending on the date the succession was liquidated.

If you have not already done so, you must send a copy of a document proving that you are the liquidator of the succession.

Anyone who distributes another person's property without having first obtained a certificate authorizing them to do so becomes personally liable for any fees, duties, interest and penalties payable under a fiscal law (including any amounts that may become payable within the next 12 months), up to the value of the property distributed. However, in the case of a succession, the liquidator of a succession may pay urgent or essential expenses (to a maximum of $12,000) before filing form MR-14.A-V without incurring any liability. These expenses can result directly from the death, such as funeral expenses, or they can be made in the interests of the succession (electricity, gas or telephone expenses).

IMPORTANT

As a rule, we have four years as of the distribution date in which to assess any amounts for which the trustee or the liquidator of a succession is personally liable.

TAA 14, TAA 14.0.0.1

Final return

The taxation year of a GRE that is wound up ends on the winding-up date (line 11), which is generally the date of the distribution of the property. You have to file the final return of the trust within 90 days after the winding-up date.

In the case of a trust other than a GRE, you must file the final return no later than 90 days following the calendar year in which the trust was wound up.

1.7 Types of trusts

The trusts described in this section are presented in alphabetical order. All the trusts are either testamentary trusts or inter vivos trusts. This distinction is important for tax purposes.

A **testamentary trust** is a trust or a succession that arises on the death of an individual and as a consequence thereof. The terms of such a trust are created by will, by law, or by court order (for example, pursuant to the application of legislation providing for an obligation of support on behalf of dependants).

A trust created by a person other than the deceased is not a testamentary trust.

A trust may lose its status as a testamentary trust further to one of the following events:

- The property or income of the trust was not distributed to beneficiaries in accordance with the terms of the will.
- The trust was created after November 12, 1981, and before the end of the taxation year, property was contributed to the trust otherwise than by succession.
- The trust was created before November 13, 1981, and:
  - after June 28, 1982, property was contributed to the trust otherwise than by succession; or
  - before the end of the taxation year, the FMV of all property that was contributed to the trust, otherwise than by succession, exceeds the FMV of the property that was contributed by succession (the FMV of the property is the value of the property at the time it was acquired by the trust, including property that was substituted for such property).

- Before the end of the taxation year, the trust incurs:
  - a debt (or any other obligation to pay an amount) owed to a beneficiary (or any person or partnership not dealing at arm's length with a beneficiary); or
  - a debt (or any other obligation to pay an amount) guaranteed by a beneficiary (or any person or partnership not dealing at arm's length with a beneficiary).

This restriction does not apply to a debt (or any other obligation) owed to a beneficiary and incurred in satisfaction of the beneficiary's right to enforce payment by the trust, before the debt is owed, of an amount on the trust's income, capital gains, or capital.

A testamentary trust keeps its status if it receives a contribution from another trust, provided the following conditions are met:

- The testamentary trust is a GRE.
- The income of the other trust became payable to the individual upon the death of the beneficiary of the testamentary trust as a result of a joint election made by the other trust and the legal representative who is administering the succession.
- The amount is paid to cover the income tax payable upon the death of the beneficiary of the trust.
- The amount paid does not exceed the income tax payable upon the death of the beneficiary of the trust.

> NOTE
> A testamentary trust keeps its status if it receives a contribution that is either a qualifying expenditure for the federal home renovation tax credit from one of its beneficiaries, or a qualifying expenditure for the federal home accessibility tax credit from one of its beneficiaries.

A trust other than a testamentary trust is an **inter vivos trust**.

677, 677.1

Alter ego trust

An alter ego trust is a trust created after 1999 by an individual aged 65 or over. The individual has the exclusive right to receive all income from the trust. No other person, during the individual's lifetime, may receive or otherwise obtain the use of any part of the trust's income or capital.

The rollover rule may apply to transfers of property made to the trust by the settlor, in which case any immediate tax incidence can be avoided (see section 3.1.1).

However, such a transfer may be subject to the **income attribution rule**. In this case, the settlor, not the trust, may have to report the income (or loss) derived from the transferred property or the capital gain (or loss) derived from the subsequent disposition of the property (see section 3.2.2).

Since 2016, the following rules have applied to alter ego trusts for the taxation year during which the beneficiary dies:

- The trust's taxation year is deemed to end at the end of the day of death, and a new taxation year is deemed to begin at the start of the following day.
- The trust's income for the year is taxable in the trust's income tax return.
- The deadline for paying the trust's income tax and filing its income tax return and RL-16 slips is the 90th day of the year following the calendar year during which the trust's taxation year ended.

You must check box 28 of the trust income tax return if the trust is an alter ego trust and the beneficiary died in the taxation year concerned. You must also enter the date of the beneficiary's death.

652.1, 663.0.1

Amateur athlete trust

An amateur athlete trust is a trust created under an arrangement whereby funds are received for the benefit of an amateur athlete. However, to preserve the athlete's eligibility to compete in a sporting event sanctioned by an international sport federation, the funds must be held, controlled and administered by a registered Canadian amateur athletic association, in accordance with the rules of the federation.

If an athlete is a member of a registered Canadian amateur athletic association and he or she is eligible to compete in sporting events as a member of the Canadian national team, an amateur athlete trust can be created provided:

- an arrangement such as the one described above has been made;
- an arrangement has been made between the athlete and an issuer as described in the definition of "qualifying arrangement" (under subsection 146.2(1) of the *Income Tax Act* [federal statute]) establishing the trust as the receiver and manager of the athlete's qualifying performance income (income from endorsements, cash prizes and public appearances and speeches).

An amateur athlete trust is considered to have been created on the day on which the association or the issuer, as applicable, receives the first payment and the athlete becomes the beneficiary.

Under Part I of the *Taxation Act*, an amateur athlete trust is not required to pay income tax on its income. However, it must file an income tax return and an RL-16 slip to report the amounts paid to the athlete, or for the benefit of the athlete, during the year (see point 7 in the instructions for line 61).

End of the trust

If, over a period of eight years, the beneficiary did not compete in an international sporting event as a member of a Canadian national team, we consider that the trust ceased to exist at the end of the taxation year in which the eight-year period ended and that the trust allocated to the beneficiary an amount equal to the FMV of the property it held at that time. The eight-year period begins the year in which the athlete last competed in such an event or the year in which the trust was created, whichever is later. Where the trust is required under Part XII.2 of the *Income Tax Act* (federal statute) to pay income tax for the taxation year, the amount allocated to the beneficiary is reduced to 64% of the FMV of the trust's property at that time.

851.34-851.36, 998(n); 1086R57

Deemed trust

A **usufruct**, a **right of use** or a **substitution** is considered to be a trust. If the usufruct, right of use or substitution was established by will, the trust is considered to be a testamentary trust, and the property subject to the usufruct, right of use or substitution is considered to have been transferred to the trust on the death of the testator and as a consequence thereof.

Furthermore, an **arrangement** under which property is subject to rights and obligations is considered to be a trust if the arrangement is established by or pursuant to a written contract in which the parties express their intention to consider the arrangement as a trust within the meaning of Part I of the *Taxation Act*.

A person who has a right, whether immediate or future and whether absolute or contingent, to receive all or part of the income or the capital from the property referred to in the previous paragraph is the beneficiary of the trust in question.

Where a taxpayer makes a gift of a work of art or cultural property with reserve of usufruct or right of use to a qualified donee, the usufruct or right of use is not considered to be a trust where:

- the gift is made during the taxpayer's lifetime;
- the gift is not a gift of immovable property;
- the usufruct or right of use was established exclusively for the benefit of the taxpayer; and
- the donor was the sole owner of the property immediately before it was donated.

Such a gift may give rise to tax relief for the donor.

7.9-7.11

Employee benefit plan

An employee benefit plan is an arrangement under which an employer remits contributions to another person, referred to as the "custodian of an employee benefit plan," in order to pay benefits to employees, former employees or persons not dealing at arm's length with an employee or former employee, or to pay such benefits on their behalf.

The employer may deduct employer contributions to the plan only if they are distributed to the beneficiaries of the plan (that is the employees, or former employees, or their legatees by particular title) or their legal representatives. The beneficiaries must include in their income the amount of the benefits received during the year, minus the portion of this amount that constitutes their contributions to the plan.

An amount received by a beneficiary of the plan, who is a person not dealing at arm's length with an employee, is deemed to have been received by the employee if the beneficiary receives it by reason of the employee's office or employment and if the employee is alive at the time the beneficiary receives the amount.

As a rule, the benefits paid by the plan are considered to be employment income for the beneficiaries. They must be reported on RL-1 slips (rather than on RL-16 slips). The total amount of benefits must be entered on form RLZ1.S-V, *Summary of Source Deductions and Employer Contributions*. The RL-1 slips and form RLZ-1.S-V must be filed no later than the last day of February of the year following the year in which the benefits were paid.

If the employee benefit plan is a trust, the trustee must file a *Trust Income Tax Return* (form TP-646-V) in accordance with the usual rules. A statement of receipts and disbursements for the year must be enclosed with the return, and the receipts (contributions, investment income, etc.) and disbursements must be broken down by type. If, in the taxation year, a portion of the investment income is retained by the trust instead of being allocated to the employees, the trustee must report this income as dividends, taxable capital gains or other investment income, as applicable. This breakdown of income is necessary in order to calculate the dividend tax credit and the AMT, and to carry over net capital losses from other years.

If a trust constituted under an employee benefit plan **becomes a retirement compensation arrangement (RCA) trust**, it must still file an income tax return for the portion of the investment income attributable to the plan. The FMV of the plan's property immediately before the change is considered to be a payment out of the plan to the employees or former employees.

47.1-47.4, 47.6, 87(j.1), 135(c), 209.1-209.3, 890.5

Employee life and health trust

A trust is considered to be an employee life and health trust for a given taxation year if it meets all the following requirements throughout the year:

- The trust's only objectives are to:
  - provide designated employee benefits to current or former employees of one or more participating employers or former participating employers, or on their behalf, and
  - distribute, after the trust has been wound up, the remaining funds to the beneficiaries, other than key employees, according to their interest in the trust.
- All or substantially all of the total cost of the employee benefits applies to designated employee benefits.
- The trust meets either of the following conditions:
  - The trust is resident in Canada.
  - If the trust is not resident in Canada, benefits are provided to employees who are resident in Canada and to employees who are not resident in Canada, one or more participating employers are resident in a country other than Canada, and the trust is resident in a country in which one of the participating employers resides.
- Each beneficiary of the trust is either an employee or former employee of a participating employer or former participating employer, an individual related to an employee or former employee, or another employee life and health trust.

- The trust does not provide benefits for which the contributions or premiums would not be deductible in calculating an employer's income.
- The trust meets the conditions regarding the proportion of members that are key members.
- The rights of the key employees of a participating employer are not superior to the rights of most of the other beneficiaries.
- The only rights granted to a participating employer (or to a person not dealing at arm's length with the employer) are the following:
  - the right to designated benefits;
  - the right to enforce undertakings, warranties or similar obligations in order to:
    - maintain the trust as an employee life and health trust, or
    - prevent the trust from deducting the designated benefits that became payable during the taxation year because certain conditions were not met.
- The trust is administered in accordance with its terms and objectives.

The following rules apply to employee life and health trusts:

- The trust can deduct designated employee benefits that became payable by the trust in a taxation year. The deduction is included in the calculation of the non-capital losses for that year (see line 513a of Schedule D).
- Non-capital losses from one year can be carried back three years or forward seven years. However, the trust cannot carry non-capital losses to a year in which the trust does not meet all of the conditions to be considered an employee life and health trust.

657, 657.1 (d), 727 (d), 727.1, 869.1-869.13

Employee trust

In general, an employee trust is an arrangement that the trustee, pursuant to federal legislation, **has elected** to qualify as an employee trust, under which an employer remits amounts to the trustee for the benefit of employees. If you have made such an election, it is automatically deemed to be made for the purposes of Québec legislation. You must send us proof that the election was made with the CRA and written notification no later than the filing deadline for the income tax return or 30 days after the election was made (whichever is later).

The contributions that the employer remits to the trustee can be deducted by the employer only if the election has been made.

To maintain its status as an employee trust, a trust must allocate to its beneficiaries (the employees), each year, all of its non-business income and all employer contributions for that year. The amounts are allocated as employment income and are taxable for the beneficiaries in the year of the allocation. The trust must report the amounts on RL-1 slips, rather than on RL-16 slips. The trust must also file form RLZ-1.S-V, *Summary of Source Deductions and Employer Contributions*, for these amounts. The RL-1 slips and form RLZ-1.S-V must be filed with us no later than the last day of February of the year following the end of the trust's taxation year.

47.1, 47.5, 47.7-47.9, 657, 657.1

Graduated rate estate (GRE)

A GRE is a succession that, at a given time, meets the following conditions:

- It arose on and as a consequence of an individual's death.
- The given time is no more than 36 months after the death.
- It is a testamentary trust at the given time.
- It designates itself as a GRE for its first taxation year ending after 2015, and no other succession designates itself as such.
- It enters the individual's social insurance number on its income tax return for each taxation year that ends after 2015 and during the 36 months after the individual's death.

The taxation year of the succession is deemed to end on the day it ceases to be a GRE and the end of any subsequent taxation year will be the end of the calendar year.

If the trust is designated as a GRE, you must check box 26 of the trust income tax return and enter the social insurance number of the deceased individual for each taxation year the trust is designated as such.

646.0.1

Health and welfare trust

A health and welfare trust is a trust established by an employer for the purpose of providing health and welfare benefits to its employees. As the tax treatment of such a trust is not explicitly set out in the federal *Income Tax Act*, we have adopted the CRA's administrative policy for this type of trust to the end of 2021.

As of 2022, health and welfare trusts established before February 28, 2018, that were not converted into employee life and health trusts or wound up are subject to the normal income tax rules for trusts.

Transitional rules are in place for winding-up and conversion to employee life and health trusts.

A health and welfare trust can make one of the following elections:

- It can elect to be converted to an employee life and health trust.
- It can elect to transfer property to an employee life and health trust and have the rollover rules apply.
- It can elect to be deemed an employee life and health trust if it was created under a collectively-bargained plan and it does not yet meet the conditions to be an employee life and health trust. It will be deemed an employee life and health trust until no later than December 31, 2022.

If the trust makes any of these elections, it must enclose a letter with its income tax return to inform us.

Insurance segregated fund trust

Generally, at the time a segregated fund of an insurer is established, a trust called a "segregated fund trust" is considered to be created with respect to the fund. The property of the segregated fund and the income derived from it are deemed to be the property and income of the trust and the insurer is the trustee of the segregated fund trust.

An income tax return and financial statements must be filed together for each segregated fund.

If some of the segregated fund policies of the trust were held as an RRSP, a RRIF, an RPP, a PRPP, a VRSP or a TFSA, you must take into account in the return and schedules only the portion of the trust's income (and, where applicable, the trust's capital gain or loss) that is to be allocated to beneficiaries other than those that hold funds under such a plan or under a TFSA.

Otherwise, complete only Part 1 (lines 1 through 11 only) and Part 5 of the return.

Note that **as of 2018**, insurers can merge segregated funds on a tax-deferred basis. The rules that apply to the merger of segregated funds are generally the same as those that apply to the merger of mutual funds.

The non-capital losses of a segregated fund can be carried back and included in the fund's taxable income for a taxation year that begins after 2017. However, the use of these losses is subject to the normal limitations for carrying non-capital losses either forward or back.

The use of non-capital losses is restricted following a segregated fund merger, as is the case for mutual fund mergers.

851.1-851.3, 851.16, 851.19

Joint spousal trust

A joint spousal trust is an inter vivos trust created after 1999 by a spouse who was aged 65 or over at the time, or by both spouses if they were both aged 65 or over at the time. The spouses have the exclusive right, during their lifetimes, to receive all income from the trust. No other person, prior to the death of the surviving spouse, may receive or otherwise obtain the use of any part of the trust's income or capital.

The rollover rule may apply to transfers of property made to the joint spousal trust by the settlor, in which case there is no immediate tax incidence for the settlor. For more information, see section 3.1.1.

However, such a transfer may be subject to the **income attribution rule**. In this case, the settlor, not the spouse nor the trust, will have to report the income (or loss) derived from the transferred property or the capital gain (or loss) derived from the subsequent disposition of the property. For more information, see sections 3.2.1 and 3.2.2.

Since 2016, the following rules have applied to joint spousal trusts for the taxation year in which the beneficiary dies:

- The trust's taxation year is deemed to end at the end of the day of death, and a new taxation year is deemed to begin at the start of the following day.
- The trust's income for the year is taxable in the trust's income tax return.
- The deadline for paying the trust's income tax and filing its income tax return and RL-16 slips is the 90th day of the year following the calendar year during which the trust's taxation year ended.

You must check box 28 of the income tax return if the trust is a joint spousal trust and the beneficiary of the trust died in the taxation year concerned. You must also enter the beneficiary's date of death.

652.1, 663.0.1

Master trust

A trust may be considered a master trust if it makes an **election** to that effect (by enclosing a letter with its income tax return for its first taxation year) and if, since its creation:

- it has always been resident in Canada;
- its only undertaking has been the investment of funds;
- it has never borrowed money, unless the loan was for a period of 90 days or less and was not part of a series of loans or other transactions and repayments;
- it has never accepted deposits; and
- its only beneficiaries have been trusts governed by a DPSP, an RPP, a PRPP or a VRSP.

A trust that makes such an election is exempt from income tax and is not required to file a return for subsequent taxation years.

998(c.4); 998R3

Mutual fund trust

A mutual fund trust is a unit trust whose units are all held and circulate in accordance with the prescribed conditions governing the number of unitholders, the dispersal of ownership of the units and public trading of the units.

Under federal legislation, a trust can **elect** to be treated as a mutual fund trust from the beginning of its first taxation year if it became a mutual fund trust within 90 days after the end of that taxation year. For the purposes of Québec legislation, no such election can be made unless it is made under federal legislation, in which case it is automatically deemed to be made. Therefore, if the trust makes this election with the CRA, you must send us proof that the election was made and written notification no later than the filing deadline for the income tax return or 30 days after the election was made (whichever is later).

Under federal legislation, a trust can **elect** to have its taxation year end on December 15 if it is a mutual fund trust on the 74th day after the end of a calendar year and its taxation year (hereinafter referred to as the "taxation year concerned") would normally end on December 31 of the calendar year. For the purposes of Québec legislation, no such election can be made unless it is made under federal legislation, in which case it is automatically deemed to be made. Therefore, if the trust makes this election with the CRA, you must send us proof that the election was made and written notification no later than the filing deadline for the return or 30 days after the election was made (whichever is later). This election has the following tax consequences for the trust:

- Each subsequent taxation year begins on December 16 of a calendar year and ends on December 15 of the following calendar year, unless otherwise provided for in the *Taxation Act*.
- For the taxation year concerned and each subsequent taxation year:
  - any fiscal period of a business or of a property of the trust that begins in this taxation year must end no later than the end of said taxation year;
  - if the trust is a member of a partnership or the beneficiary of another trust, and if the partnership's fiscal period or the other trust's taxation year ends in the last 16 days of the calendar year, the trust must take into account its share in the income (or losses) of the partnership for that fiscal period or in the income of the other trust for that taxation year;
  - the portion of the trust's income that is paid or payable to unitholders in the last 16 days of the calendar year is deductible for the trust and taxable for the unitholders.

If the trust fails to send us a copy of any document filed with the CRA within the prescribed deadline, it will be liable to a **penalty** of $25 per day, up to a maximum of $2,500.

In some situations, a mutual fund trust cannot elect to have its taxation year end on December 15, such as when the trust ceases to be resident in Canada or is subject to a loss restriction event.

Under section 1121.1 of the *Taxation Act*, a mutual fund trust may designate, for the year, an amount in respect of a particular unit, to a maximum of the portion of the cost base reductions of all the units (for example, capital distributions) for previous years that has not been similarly designated for the year, in respect of the other units, or for the previous years, in respect of all the units. As a result of the designation:

- you must report the designated amount on the RL-16 slip of the unit's holder as income and as an adjustment that increases the unit's ACB; and
- you may claim a deduction in calculating the trust's income.

For taxation years beginning on or after March 19, 2019, a mutual fund trust can no longer, on redemption of the trust's units, deduct the portion of an amount allocated to a unitholder that exceeds the capital gain that would otherwise have been realized by the unitholder if the amount allocated were subtracted from the redemption proceeds. For taxation years beginning after December 15, 2021, a mutual fund trust that is an exchange traded fund or a fund that offers exchange traded funds is subject to special rules that limit the deduction of certain amounts allocated to a unitholder on redemption.

Similarly, a mutual fund trust can no longer, upon redemption of the trust's units, deduct ordinary income allocated to a unitholder if the amount allocated is subtracted from the redemption proceeds.

Since March 22, 2017, the mutual fund merger rules have been extended to facilitate the reorganization of a mutual fund corporation that is structured as a switch corporation into multiple mutual fund trusts on a tax-deferred basis. The exchange of a unit of a mutual fund trust for another unit of that trust may qualify for a tax deferral.

A switch corporation is a mutual fund corporation with multiple classes of shares. Each class of shares is usually a distinct investment fund.

To qualify for the tax deferral, with respect to each class of shares of the mutual fund corporation that is or is part of an investment fund, all or almost all of the assets allocable to that class must be transferred to a mutual fund trust after March 21, 2017. In addition, the shareholders of that class must become unitholders of that mutual fund trust.

21.4.7, 649, 785.4, 1120, 1121.1 ff.

Non-profit organization

An organization, such as a club, society or association that is established and managed exclusively for non-profit purposes, is generally exempt from income tax if no portion of its income is payable or otherwise made available to a proprietor, member or shareholder, unless the proprietor, member or shareholder is a club, society or association whose main object is the promotion of amateur athletics in Canada. Such an organization may nonetheless be required to file a return as a tax-exempt entity (see the last paragraph of section 1.2.5).

If the main purpose of the organization is to provide dining, recreational or sports facilities to its members, **a trust is considered to have been created with respect to the organization's property** (see section 1.2 for requirements regarding the obligation to file a trust income tax return). In this case, only the following amounts should be included in the calculation of the trust's income:

- income and losses derived from the organization's property; and
- capital gains and losses from the disposition of property that was not used exclusively and directly in the pursuit of the organization's main objective.

Such a trust is entitled to an additional deduction of $2,000 in the calculation of its taxable income (line 94 of the return).

986, 996, 997, 997.1

Personal trust

A personal trust is:

- a graduated rate estate (GRE);
- a trust created gratuitously in which no beneficiary right was acquired for consideration to be paid, directly or indirectly, to the trust or to a person or partnership that contributed to the trust, in order to acquire a beneficial interest. The settlor may acquire all the interests in the trust without the trust losing its status as a personal trust; or
- the same is true for settlors that are related to each other.

NOTE

- The term "personal trust" means, among others:
  - a spousal trust;
  - a joint spousal trust;
  - an alter ego trust or a self-benefit trust;
  - a trust for a beneficiary under 21 years of age;
  - a deemed trust.
- A unit trust is not considered to be a personal trust.

649.1, 651.3

Qualified disability trust (QDT)

A QDT is a trust that, for a given taxation year (the "trust year") meets the following conditions:

- It is a testamentary trust that arose on and as a consequence of an individual's death.
- It is resident in Canada throughout the trust year.
- It makes a joint election (using the prescribed form), with one or more electing beneficiaries (see the definition in Part 6), to be considered a QDT.
- It provides the social insurance number of each of the electing beneficiaries in its income tax return.

- Each electing beneficiary meets the following conditions:
  - The beneficiary is an individual designated as a beneficiary in the instrument that established the trust.
  - The beneficiary did not make a joint election with another trust, for a taxation year of a trust ending during the beneficiary's taxation year, to designate that trust as a QDT.
- The trust did not pay or distribute any amount in the form of capital to a beneficiary who is not an electing beneficiary.

A QDT that is, for the year, a GRE is subject to the recovery tax in any of the following situations:

- The trust ceases, during the year, to have as beneficiaries individuals who were its electing beneficiaries during one or more previous taxation years. This can be caused, for example, by the death of the electing beneficiary or, where the trust had more than one electing beneficiary, by the death of the last electing beneficiary.
- The trust is no longer resident in Canada.
- The trust distributed an amount in the form of capital to a beneficiary who was not an electing beneficiary during the previous taxation year. However, certain payments made by the trust do not result in the recovery tax, such as payments made to a beneficiary as the debtor of the trust.

To calculate the recovery tax, complete form TP-768.1, *Recovery Tax: Qualified Disability Trust*, and enter the result from line 811 on line 150.1 of the trust income tax return.

You must take the recovery tax into account when calculating instalment payments, if applicable.

If the trust is designated as a QDT, you must check box 27 of the return and provide the requested documents and information.

768-768.2

Religious organization (other than a charity)

A congregation is a group of individuals who are part of a religious organization. A trust is deemed to have been created and to hold the property of a congregation if the following conditions are met:

- All the members of the congregation live and work together, do not have the right to own property in their own name, and devote their working lives to the activities of the congregation.
- The congregation carries on one or more businesses, or manages or controls businesses through a business agency (such as a corporation or a trust), for the purpose of supporting its members or the members of any other congregation.

The trust must calculate its income tax and comply with the requirements regarding the obligation to file an income tax return. Each year, however, the trust can **elect**, under federal legislation, to allocate all of its taxable income to its beneficiaries (the members of the congregation). For the purposes of Québec legislation, no such election may be made unless it is made under federal legislation, in which case it is automatically deemed to be made, provided the income tax, interest and penalties payable by the trust's beneficiaries for previous years are paid within the time limit required under the *Taxation Act*. Therefore, if the trust makes this election with the CRA, you must send us proof that the election was made and written notification no later than the filing deadline for the return or 30 days after the election was made (whichever is later).

If the trust earned business income in the year and a portion of the income is payable to a member of the congregation, the income is considered to be derived from a business operated by the member.

851.23-851.31

Self-benefit trust

A self-benefit trust has the same characteristics as an alter ego trust, except that the settlor may be less than 65 years of age. See "Alter ego trust" on page 25.

454.2(a) and (b)(ii)

Specified investment flow-through trust (SIFT trust)

For a given taxation year, a SIFT trust is a trust that is neither an excluded subsidiary entity (see the definition in Part 6) nor a real estate investment trust (REIT) but that meets the following conditions at some time during the year:

- The trust is resident in Canada.
- Investments in the trust are listed or traded on a stock exchange or other public market.
- The trust holds one or more non-portfolio properties.

If a SIFT trust has an **establishment in Québec**, it must:

- calculate the non-deductible allocations amount (which is considered to be the amount of allocated non-portfolio earnings) and allocate the amount to its beneficiaries as an eligible dividend;
- pay income tax on the taxable distributions amount at the same tax rate as corporations. If the trust has an establishment in Québec and also has an establishment elsewhere, it must use the business allocation formula used by corporations to calculate the income tax.

The trust can use Schedule E to calculate:

- the deduction it can claim with respect to the portion of its income that is allocated to beneficiaries;
- the income tax payable on the taxable distributions amount; and
- the eligible dividends to be designated.

> NOTE
> If the trust issued stapled securities, see section 3.4.

1129.70, 1129.71

Specified trust

A trust is considered to be a specified trust for a particular taxation year if it is an inter vivos trust that was not resident in Canada at any time in the year and that is not tax-exempt.

If, during the taxation year, such a trust is the owner of a specified immovable or is a member of a partnership that owns such an immovable, it must pay income tax on the property income (or its share of the property income, where it is a member of a partnership) derived from the rental of the specified immovable.

A specified trust that did not earn income from other sources in Québec must complete lines 1 through 11 (making sure to check box 8b) and Part 5 of the return before reporting any property income derived from the rental of a specified immovable and calculating the income tax payable on such income on Schedule F of the return.

A specified trust that earned taxable income in Québec from other sources (such as business income) must calculate the income tax payable on that income on the return in the usual way. The trust must also report any property income derived from the rental of a specified immovable and calculate the income tax payable on that income on Schedule F of the return.

The trust has to file an income tax return and complete Schedule F every year, regardless of whether it is required to pay income tax.

If the rental of a specified immovable results in a net loss with respect to one immovable and net income with respect to another, the loss can be deducted only from the net income of that other immovable.

> NOTE
> If, in a future taxation year, the trust becomes resident in Canada while it is the owner of a specified immovable, it will be deemed to have disposed of the immovable immediately before becoming resident in Canada, for proceeds equal to the FMV of the immovable at that time, and to have reacquired it, immediately afterwards, at a price equal to the proceeds of the deemed disposition (see section 5.1.2.2).

1129.77-1129.80

Spousal trust

For tax purposes, spousal trusts (see the definitions of "spouse" and "de facto spouse" in Part 6) are grouped into the following two categories:

- pre-1972 spousal trusts, that is:
  - testamentary trusts created before 1972, and
  - inter vivos trusts created before June 18, 1971;
- post-1971 spousal trusts, that is:
  - testamentary trusts created after 1971, and
  - inter vivos trusts created after June 17, 1971.

In the case of a pre-1972 spousal trust, the spouse may, during his or her lifetime, receive all of the trust's income. However, no other person may receive or otherwise obtain enjoyment of the trust's income or capital from the date on which the trust is created to the spouse's date of death or January 1, 1993, whichever is earlier.

In the case of a post-1971 spousal trust, the spouse has the exclusive right, during his or her lifetime, to all the trust's income. No other person, prior to the spouse's death, may receive or otherwise obtain enjoyment of the trust's income or capital. An inter vivos trust is considered to be a spousal trust if it possesses these characteristics throughout its existence.

If the settlor of a spousal trust transfers property to the trust, the settlor can take advantage of the **rollover rule**. When this rule is applied, there is no immediate tax incidence for the settlor with respect to the transfer. For more information, see section 3.1.1.

However, such a transfer may be subject to the **income attribution rule**. In this case, the settlor rather than the trust or spouse must report the income (or loss) derived from the transferred property or the capital gain (or loss) derived from the disposition of the property. For more information, see sections 3.2.1 and 3.2.2.

Death of the beneficiary

Since 2016, the following rules have applied to spousal trusts for the taxation year in which the beneficiary dies:

- The trust's taxation year is deemed to end at the end of the day of death, and a new taxation year is deemed to begin at the start of the following day.
- The trust's income for the year is taxable in the trust's income tax return. However, the income can be taxable in the deceased beneficiary's income tax return if the following conditions are met:
  - The beneficiary was resident in Canada immediately before the death.
  - The trust was, immediately before the death, a testamentary trust that is a post-1971 spousal trust established by the will of a taxpayer who died before 2017.
  - The trust and the legal representative who is administering the GRE have made a joint election, using the prescribed form, to have the trust's income for the year be deemed payable to the beneficiary who died in that year. The election form must be enclosed with the individual's income tax return for the year of death and the income tax return of the trust for the given year.
- The deadline for paying the trust's income tax and filing its income tax return and RL-16 slips is the 90th day of the year following the calendar year during which the trust's taxation year ended.

The trust and the beneficiary are solidarily liable for the portion of income tax that the beneficiary must pay when the trust's income is included in the calculation of the beneficiary's income for his or her taxation year.

You must check box 28 of the income tax return if the trust is a spousal trust and the beneficiary of the trust died in the taxation year concerned. You must also enter the date of the beneficiary's death.

NOTE
A trust may cease to be considered a spousal trust where, during the lifetime of the spouse, another beneficiary receives or otherwise obtains enjoyment of all or part of the trust's income or capital, or where the benefits to the spouse are changed or cease to be granted.

440, 454, 652.1, 663.0.1, 1034.0.0.4

Trust for a beneficiary under 21 years of age

A testamentary or inter vivos trust may keep, on behalf of a beneficiary, the portion of its income earned in the year that did not become payable to the beneficiary in the year because the beneficiary is under 21 years of age. The portion in question is nonetheless considered to have become payable (therefore allocated) to the beneficiary in the year if the following conditions are met:

- The trust was resident in Canada throughout the taxation year.
- The beneficiary was under 21 years of age at the end of the taxation year.
- The right to the trust's income:
  - was vested in the beneficiary no later than the end of the year (and no one exercised a discretionary power on that right); and
  - was not subject to any future condition, other than a condition respecting the beneficiary's survival to the age of 40.

The trust must therefore allocate to the beneficiary the portion of the income considered to have become payable during the year to the beneficiary concerned. The amount can be deducted on line 81 of the trust's return.

A person who transferred or loaned property to the trust may be subject to the **income attribution rule**. This means that this person, not the trust nor the beneficiary, may have to report the income (or loss) derived from the property or the capital gain (or loss) derived from the disposition of the property. For more information, see sections 3.2.1 and 3.2.2.

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Unit trust

A unit trust is an inter vivos trust in which, at any particular time, a beneficiary's interest is defined in terms of the units of the trust. The trust and its units must nevertheless meet the conditions set forth in section 649 of the *Taxation Act*.

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1.8 Province, territory and country codes

If you are required to provide information about a province, territory or country on certain lines of the return and schedules, enter one of the codes from the lists below.

Province or territory	Code
Alberta	AB
British Columbia	BC
Manitoba	MB
New Brunswick	NB
Newfoundland and Labrador	NL
Northwest Territories	NT
Nova Scotia	NS
Nunavut	NU
Ontario	ON
Prince Edward Island	PE
Québec	QC
Saskatchewan	SK
Yukon	YT

	Country	Code
A	Afghanistan	AFG
	Åland Islands	ALA
	Albania	ALB
	Algeria	DZA
	American Samoa	ASM
	Andorra	AND
	Angola	AGO
	Anguilla	AIA
	Antarctica	ATA
	Antigua and Barbuda	ATG
	Argentina	ARG
	Armenia	ARM
	Aruba	ABW
	Australia	AUS
	Austria	AUT
	Azerbaijan	AZE
	Azores	AZO
B	Bahamas, The	BHS
	Bahrain	BHR
	Bangladesh	BGD
	Barbados	BRB
	Belarus	BLR
	Belgium	BEL
	Belize	BLZ
	Benin	BEN
	Bermuda	BMU
	Bhutan	BTN
	Bolivia	BOL
	Bonaire, Sint Eustatius and Saba	BES
	Bosnia and Herzegovina	BIH
	Botswana	BWA
	Bouvet Island	BVT
	Brazil	BRA
	British Indian Ocean Territory	IOT
	British Virgin Islands	VGB
	Brunei	BRN
	Bulgaria	BGR
	Burkina Faso	BFA
	Burundi	BDI
C	Cabo Verde	CPV
	Cambodia	KHM
	Cameroon	CMR
	Campione d'Italia	CMP
	Canada	CAN
	Canary Islands	CNP
	Cayman Islands	CYM
	Central African Republic	CAF
	Chad	TCD
	Chile	CHL
	China	CHN
	Christmas Island	CXR
	Cocos (Keeling) Islands	CCK
	Colombia	COL
	Comoros	COM
	Congo	COG
	Cook Islands	COK
	Costa Rica	CRI
	Cote d'Ivoire	CIV
	Croatia	HRV
	Cuba	CUB
	Curaçao	CUW
	Cyprus	CYP
	Czech Republic	CZE
D	Democratic People's Republic of Korea	PRK
	Democratic Republic of the Congo	COD
	Denmark	DNK
	Djibouti	DJI

	Country	Code
	Dominica	DMA
	Dominican Republic	DOM
E	Ecuador	ECU
	Egypt	EGY
	El Salvador	SLV
	Equatorial Guinea	GNQ
	Eritrea	ERI
	Estonia	EST
	Ethiopia	ETH
F	Falkland Islands (Islas Malvinas)	FLK
	Faroe Islands	FRO
	Fiji	FJI
	Finland	FIN
	France	FRA
	French Guiana	GUF
	French Polynesia	PYF
	French Southern Territories	ATF
G	Gabon	GAB
	Gambia	GMB
	Georgia	GEO
	Germany	DEU
	Ghana	GHA
	Gibraltar	GIB
	Great Britain (including Northern Ireland)	GBR
	Greece	GRC
	Greenland	GRL
	Grenada	GRD
	Guadeloupe	GLP
	Guam	GUM
	Guatemala	GTM
	Guernsey	GGY
	Guinea	GIN
	Guinea-Bissau	GNB
	Guyana	GUY
H	Haiti	HTI
	Heard Island and McDonald Islands	HMD
	Honduras	HND
	Hong Kong	HKG
	Hungary	HUN
I	Iceland	ISL
	India	IND
	Indonesia	IDN

	Country	Code
	Iran	IRN
	Iraq	IRQ
	Ireland	IRL
	Isle of Man	IMN
	Israel	ISR
	Italy	ITA
J	Jamaica	JAM
	Japan	JPN
	Jersey	JEY
	Jordan	JOR
K	Kazakhstan	KAZ
	Kenya	KEN
	Kiribati	KIR
	Kuwait	KWT
	Kyrgyzstan	KGZ
L	Laos	LAO
	Latvia	LVA
	Lebanon	LBN
	Lesotho	LSO
	Liberia	LBR
	Libya	LBY
	Liechtenstein	LIE
	Lithuania	LTU
	Luxembourg	LUX
M	Macau	MAC
	Macedonia	MKD
	Madagascar	MDG
	Madeira	MDR
	Malawi	MWI
	Malaysia	MYS
	Maldives	MDV
	Mali	MLI
	Malta	MLT
	Marshall Islands	MHL
	Martinique	MTQ
	Mauritania	MRT
	Mauritius	MUS
	Mayotte	MYT
	Mexico	MEX
	Micronesia (Federated States of)	FSM
	Moldova	MDA
	Monaco	MCO
	Mongolia	MNG
	Montenegro	MNE

	Country	Code
	Montserrat	MSR
	Morocco	MAR
	Mozambique	MOZ
	Myanmar	MMR
N	Namibia	NAM
	Nauru	NRU
	Nepal	NPL
	Netherlands	NLD
	New Caledonia	NCL
	New Zealand	NZL
	Nicaragua	NIC
	Niger	NER
	Nigeria	NGA
	Niue	NIU
	Norfolk Island	NFK
	Northern Ireland	GBR
	Northern Mariana Islands	MNP
	Norway	NOR
O	Oman	OMN
P	Pakistan	PAK
	Palau	PLW
	Panama	PAN
	Papua New Guinea	PNG
	Paraguay	PRY
	Peru	PER
	Philippines	PHL
	Pitcairn	PCN
	Poland	POL
	Portugal	PRT
	Puerto Rico	PRI
Q	Qatar	QAT
R	Republic of Korea	KOR
	Reunion	REU
	Romania	ROM
	Russian Federation	RUS
	Rwanda	RWA
S	Saint Barthélemy	BLM
	Saint Helena, Ascension and Tristan de Cunha	SHN
	Saint Kitts and Nevis	KNA
	Saint Lucia	LCA
	Saint Martin (French part)	MAF
	Saint Pierre and Miquelon	SPM

	Country	Code
	Saint Vincent and the Grenadines	VCT
	Samoa	WSM
	San Marino	SMR
	Sao Tome and Principe	STP
	Saudi Arabia	SAU
	Senegal	SEN
	Serbia	SRB
	Seychelles	SYC
	Sierra Leone	SLE
	Singapore	SGP
	Sint Maarten (Dutch part)	SXM
	Slovakia	SVK
	Slovenia	SVN
	Solomon Islands	SLB
	Somalia	SOM
	South Africa	ZAF
	South Georgia and the South Sandwich Islands	SGS
	South Sudan	SSD
	Spain	ESP
	Sri Lanka	LKA
	State of Palestine	PSE
	Sudan	SDN
	Suriname	SUR

	Country	Code
	Svalbard and Jan Mayen Islands	SJM
	Swaziland	SWZ
	Sweden	SWE
	Switzerland	CHE
	Syria	SYR
T	Tajikistan	TJK
	Taiwan	TWN
	Tanzania	TZA
	Thailand	THA
	Timor-Leste	TLS
	Togo	TGO
	Tokelau	TKL
	Tonga	TON
	Trinidad and Tobago	TTO
	Tunisia	TUN
	Turkey	TUR
	Turkmenistan	TKM
	Turks and Caicos Islands	TCA
	Tuvalu	TUV
U	Uganda	UGA
	Ukraine	UKR
	United Arab Emirates	ARE
	United States	USA
	United States Minor Outlying Islands	UMI

	Country	Code
	United States Virgin Islands	VIR
	Uruguay	URY
	Uzbekistan	UZB
V	Vanuatu (New Hebrides)	VUT
	Vatican City (Holy See)	VAT
	Venezuela	VEN
	Vietnam	VNM
W	Wallis and Futuna	WLF
	Western Sahara	ESH
Y	Yemen	YEM
Z	Zambia	ZMB
	Zimbabwe	ZWE
	All other countries	OMC

2 RIGHTS AND OBLIGATIONS OF A TRUST AS A TAXPAYER

As the trustee, you must provide all the required information concerning the trust's income, deductions and credits in order to facilitate the calculation of its income tax payable. By paying its fair share of income tax, the trust contributes to tax fairness and to the financing of public services, in particular in the areas of education, healthcare and social services. The trust is liable to penalties and penal proceedings if it fails to provide the required information or files inaccurate or incomplete information.

Penalties

For example, a trust is liable to a penalty of:

- 5% of the income tax not paid by the filing deadline for form TP-646-V, *Trust Income Tax Return*, if it fails to file the form and an additional penalty of 1% of that income tax for each full month the form is late (up to a maximum of 12 months);
- 10% of the income it fails to report for a given taxation year if it fails to report the same type of income for one of the three previous years;
- $100 if it fails to provide required information in its return.

1045; TAA 59.0.2, TAA 59.2.2

To avoid penalties, the trust can rectify its tax situation by filing a duly completed **voluntary disclosure** application (form LM-15-V, *Voluntary Disclosure*). The trust can take advantage of our voluntary disclosure program if the disclosure meets the terms and conditions set out in the current version of interpretation bulletin ADM. 4. The trust will nonetheless have to pay the income tax payable and any interest accrued. For more information regarding the voluntary disclosure program, refer to the current version of interpretation bulletin ADM. 4 on the Publications du Québec website (publicationsduquebec.gouv.qc.ca) or see *Voluntary Disclosure: Rectifying Your Tax Situation* (IN-309-V) on our website.

Under the *Act respecting Access to documents held by public bodies and the Protection of personal information* and the *Tax Administration Act*, you, as the trustee, have the right (subject to the exceptions provided for by these laws) to obtain all information regarding the trust, to consult any document that contains such information and to request that information be corrected.

2.1 Mandatory or preventive disclosure

Any taxpayer that carries out a confidential transaction, a transaction involving conditional remuneration, a transaction involving contractual coverage or a specified transaction (or that is a member of a partnership that carries out such a transaction) **must** disclose the transaction to us (mandatory disclosure).

A taxpayer **may** choose to disclose to us a transaction that the taxpayer (or a partnership of which the taxpayer is a member) has started to carry out (preventive disclosure).

If the transaction was carried out by a limited partnership, the general partner is responsible for making the disclosure. If the transaction was carried out by a partnership other than a limited partnership, each member of the partnership is responsible for making the disclosure. In both cases, if one member discloses the transaction, all members are deemed to have disclosed it.

Such a transaction, other than a specified transaction, must be disclosed by the filing deadline for the related return, which differs depending on whether the transaction is carried out by the trust or a partnership of which the trust is a member. The disclosure deadline is thus the filing deadline for:

- the trust's income tax return for the taxation year in which the transaction resulted in a tax advantage or had an impact on the trust's income (mandatory disclosure) or the taxation year in which the transaction began to be carried out (preventive disclosure); or
- the partnership's information return for the fiscal period in which the transaction resulted in a tax advantage or had an impact on the partnership's income (mandatory disclosure) or the taxation year in which the transaction started (preventive disclosure).

The trust must file mandatory disclosures for specified transactions by the later of the following dates:

- 60 days after the day determined by the Minister and from which the obligation to disclose the specified transaction applies; or
- 120 days after the day on which the Minister published the determined transaction to which the specified transaction relates in the *Gazette officielle du Québec*.

Failure to make a mandatory or preventive disclosure where circumstances require or allow it (as applicable) can have various consequences. For more information, see forms TP-1079.DI-V, *Mandatory Disclosure of a Confidential Transaction or a Transaction Involving Conditional Remuneration or Contractual Coverage*, and TP-1079.OD-V, *Mandatory Disclosure of a Specified Transaction or Preventive Disclosure*.

A mandatory disclosure must be filed by any adviser or promoter that commercialized or promoted a determined transaction if the transaction has not required a significant modification to its form and substance to adapt it for implementation with various taxpayers or partnerships. For more information, see form TP-1079.CP-V, *Mandatory Disclosure of Tax Planning by an Adviser or Promoter*.

As part of our efforts to fight aggressive tax planning, we impose a penalty on trusts to which we have issued a notice of assessment further to the general anti-avoidance rule (GAAR).

A trust is liable to a penalty of 50% of the amount of the tax benefit denied if it is involved in an avoidance transaction that was not the subject of a mandatory or preventive disclosure and to which the GAAR applies.

1079.8.1 ff.

2.2 Mandatary disclosure of nominee agreements

Any trust that is party to a nominee agreement entered into in the context of a transaction or a series of transactions having tax consequences is required to file form TP-1079.PN-V, *Disclosure of a Nominee Agreement*. This requirement also applies to any trust that is a member of a partnership that is party to such an agreement. The disclosure made by one of the parties to a nominee agreement will be deemed to have also been made by all the parties to the agreement.

The disclosure must be made by the later of the following:

- the 90th day following the day the nominee agreement was concluded; or
- December 23, 2020.

If the disclosure is not filed by the deadline, the parties to the nominee agreement will be solidarily liable for a $1,000 penalty. For every day after the deadline, an additional penalty of $100 will be imposed, up to a maximum of $5,000.

2.3 Obligation to register a trust operating a commercial enterprise

Any trust operating a commercial enterprise in Québec that is not administered by a registered trustee must register with the Registraire des entreprises and pay the applicable fees, pursuant to the *Act respecting the legal publicity of enterprises*. To register, such a trust must file form RE-204, *Déclaration d'immatriculation pour une fiducie exploitant une entreprise à caractère commercial*, available in the **Forms** section of the Registraire des entreprises website at registreentreprises.gouv.qc.ca.

For the purposes of the Act, the term "trust operating a commercial enterprise" means a trust that carries on an organized economic activity in order to make a profit. Business trusts, investment trusts and real estate investment trusts are all considered to be trusts operating a commercial enterprise. For more information, refer to guide IN-525, *Obligation d'immatriculation concernant les fiducies exploitant une entreprise à caractère commercial*, which you can obtain by contacting the client services of the Registraire des entreprises. You can also refer to guide RE-204.G, *Guide concernant la déclaration d'immatriculation pour une fiducie exploitant une entreprise à caractère commercial*, which is available in the **Forms** section of the Registraire des entreprises website or can be obtained from their client services.

Every year following the year in which it registered, the trust must pay the annual registration fee and file form RE-403, *Déclaration de mise à jour annuelle ou courante pour une fiducie exploitant une entreprise à caractère commercial*, with the Registraire des entreprises to declare that the information previously provided is still accurate or to make any necessary changes. Penalties apply for filing the declaration or paying the fees late. The declaration, payment of the fees and any penalties must be sent directly to the Registraire des entreprises. They cannot be enclosed with the trust income tax return.

The filing period for the declaration is given in the document *Production de votre déclaration de mise à jour annuelle* that the Registraire des entreprises sends out each year.

For more information, visit the website of the Registraire des entreprises.

2.4 Protection of confidential information

We protect your personal information in accordance with the *Tax Administration Act* and the *Act respecting Access to documents held by public bodies and the Protection of personal information*. Only authorized employees have access to the information, and only if they need it to carry out their duties. We use the information to administer laws and social programs, conduct studies, research and surveys, and compile statistics. Subject to the restrictions provided for by the above-mentioned laws, we may share your information with other government departments and bodies and other persons for specific purposes and without your consent.

Failure to provide required information may result in the refusal of your application or impact your file. Subject to certain legal restrictions, you can consult your information, get a copy of it and request corrections to it.

For more information, see "Your rights and obligations as a taxpayer" in the guide to the personal income tax return (TP-1.G-V) and **Access to Information** on our website.

All information we obtain from a trust income tax return or otherwise remains confidential. In the course of administering fiscal laws, we may compare or combine information files in order to ensure that the trust has complied with its obligations under the *Tax Administration Act*.

The communication of such information to the government departments, agencies and persons referred to in the *Tax Administration Act* is permitted if the information is required to administer laws or joint programs for which these departments, agencies or persons are responsible. A justification for communicating such information must be given and assessed against the provisions that permit disclosure. Generally, information is communicated within the scope of written agreements approved by the Commission d'accès à l'information du Québec. The Commission analyzes the nature of the information communicated and the purposes for which it is communicated, the methods of communication used, the means used and the security measures taken to preserve the confidentiality of the information communicated, the intervals at which information is communicated, the means chosen to inform the persons concerned and the duration of the agreement.

We destroy documents containing confidential information once the purpose for which the information was collected has been served, subject to the legal time limit or the retention schedule.

Government departments, agencies and persons to whom information may be communicated

Autorité des marchés publics

Canadian or foreign governments, government departments or bodies (including the Canada Revenue Agency), or international organizations, for the purposes of administering a tax agreement, applying a tax law, eliminating double taxation or giving effect to international fiscal agreements

Commissaire à la lutte contre la corruption, Commissaire associé aux vérifications and any audit team or investigative unit designated by the government pursuant to the *Anti-Corruption Act*

Commissaire à l'éthique et à la déontologie

Commissaire au lobbyisme du Québec

Commission d'accès à l'information du Québec

Commission des normes, de l'équité, de la santé et de la sécurité du travail

Commission des transports du Québec

Contrôleur des finances

Directeur général des élections

Government departments or agencies responsible for rendering a decision or for issuing or revoking an attestation, a certificate, a validation certificate or another similar document for the purposes of a fiscal law

Institut de la statistique du Québec

Ministère des Affaires municipales et de l'Habitation

Ministère de l'Agriculture, des Pêcheries et de l'Alimentation

Ministère de l'Éducation

Ministère de l'Énergie et des Ressources naturelles

Ministère de l'Enseignement supérieur

Ministère de la Famille

Ministère des Finances

Ministère des Relations internationales et de la Francophonie

Ministère du Tourisme

Ministère du Travail, de l'Emploi et de la Solidarité sociale

Native communities, for the purposes of administering agreements between the Québec government and such a community's band council

Office québécois de la langue française

Protecteur du citoyen

Public bodies designated as an official source of government digital data

Public bodies subject to governmental compensation

Régie de l'assurance maladie du Québec

Régie du bâtiment
Registraire des entreprises
Retraite Québec
Société de l’assurance automobile du Québec
Vérificateur général

Laws administered by Revenu Québec

Laws administered in their entirety

Act respecting the application of the Taxation Act
Act respecting the legal publicity of enterprises
Act respecting the Québec sales tax
Act to facilitate the payment of support
Fuel Tax Act
Tax Administration Act
Taxation Act
Tobacco Tax Act
Unclaimed Property Act

Laws administered in part

Act respecting international financial centres (tax incentives)
Act respecting labour standards (employer contributions)
Act respecting municipal taxation (certain municipal property tax refunds or payments)
Act respecting parental insurance (Québec parental insurance plan premium payable by an employer, an employee or a self-employed person)
Act respecting the Québec Pension Plan (contribution payable by an employer, an employee or a self-employed person)
Act respecting the Régie de l’assurance maladie du Québec (health contribution, employer contribution to the health services fund, contribution payable by an individual to the health services fund, premium payable by an individual to the prescription drug insurance fund)
Act respecting the Société d’habitation du Québec (shelter allowance program for older persons and families)
Act to promote workforce skills development and recognition (employer contribution to the Workforce Skills Development and Recognition Fund)
Public Curator Act (unclaimed property)

2.5 Communication of confidential information to a person designated by the trust

If the trustee wants us to transmit information concerning the trust’s tax file to a person the trustee has designated, the trustee must complete and sign form MR-69-V, *Authorization to Communicate Information or Power of Attorney*. The authorization or power of attorney will remain valid indefinitely, unless the trustee enters the date on which the authorization or power of attorney ceases to be valid. To cancel an authorization or power of attorney previously granted, the trustee must use form MR-69.R-V, *Revocation of Authorization to Communicate Information or of Power of Attorney*.

TAA 69

3 SPECIAL RULES

This part deals with certain transactions made **in favour of the trust** or **by the trust.** Such transactions can have significant consequences, such as:

- the transferor may be able to transfer property without immediate tax consequences (see section 3.1 for information about the rollover rule);
- the trust may have to issue an RL-16 slip for property income or taxable capital gains on the property after certain types of transfers (see section 3.2 for information about the income attribution rule);
- the trust may be prohibited from immediately deducting a loss (see section 3.3 for information about losses on the disposition of property involving an affiliated person).

This part also deals with:

- the non-deductibility of amounts paid by certain investment trusts (such as SIFT trusts and REITs) with regard to their stapled securities (see section 3.4);
- the attribute trading restriction if a beneficiary holds a majority interest in the trust (see section 3.5);
- the limit applicable to the deduction of interest on debts owing to specified non-resident beneficiaries (see section 3.6);
- the non-deductibility of a loss in the calculation of adjusted taxable income for AMT purposes (see section 3.7);
- the use of a trust for cross-border surplus-stripping (see section 3.8).

3.1 Rollover rule

3.1.1 Qualifying transfer

There is no tax incidence for a settlor who makes a qualifying transfer of property to a spousal trust, an alter ego trust, a self-benefit trust or a joint spousal trust (rollover rule). In this case, the proceeds of disposition for the settlor and the acquisition cost for the trust are deemed equal to the ACB of the property or the UCC attributable to the property if it is depreciable property.

For the transfer to be deemed a qualifying transfer, both the trust and the settlor must be resident in Canada at the time of the transfer. In the case of a testamentary spousal trust, the settlor must be resident in Canada immediately before death, and the trust must be resident in Canada immediately after the property in question is indefeasibly vested in it. In the case of a self-benefit trust, the transfer must not result in a change in the beneficial ownership of the property and, immediately after the transfer, no other person or partnership may have an absolute or contingent right as a beneficiary of the trust.

The settlor of the trust (or his or her legal representative in the case of a testamentary spousal trust) may elect not to apply the rollover rule, provided he or she notifies the CRA of the election beforehand.

NOTE

The rollover rule applies to transfers of capital property only; it does not apply to transfers of property included in the inventory of a business.

440, 442, 454, 454.1 ff., 652.1

3.1.2 Qualifying disposition

There is little or no tax incidence (rollover rule) for an individual (referred to as the "transferor") who transfers property to a trust (referred to as the "assignee") as part of a qualifying disposition.

A disposition is a qualifying disposition if it does not change the beneficial ownership of the property and other conditions are met:

- The transferor receives no consideration, other than an interest as a beneficiary of the trust.
- The assignee is resident in Canada at the time of the transfer.
- The transferor and the assignee are trusts covered by one of points 1 through 11 of section 5.1.5 (see "Exceptions to deemed sales").
- The transferor and the assignee are the same type of trust, if the transferor is a trust covered by one of points 1, 2, 3, 4 (except if the trust is established under an RPP, a PRPP, a VRSP, a DPSP, an RRSP, a RRIF or an employee benefit plan), 5, 7, 9 or 11 of section 5.1.5 (see "Exceptions to deemed sales").

If the transfer of property to a trust is considered to be a qualifying disposition, the acquisition cost of the property for the trust is deemed to be equal, as applicable, to the proceeds of disposition determined for the transferor (that is, the cost amount for the transferor immediately before the transfer) or, if the transferor **elected** to designate, under federal legislation, an amount as proceeds of disposition, the greater of the following amounts:

- the cost amount for the transferor immediately before the transfer; or
- the amount designated by the transferor in the election made with the CRA.

This election is automatically deemed to be made for the purposes of Québec legislation. Therefore, you must send us proof that the election was made with the CRA and written notification no later than the filing deadline for the return or 30 days after the election was made (whichever is later).

The rollover rule does not apply to dispositions of property in favour of a revocable or blind trust (see section 3.2.2).

692.5-692.9

3.2 Income attribution rule

3.2.1 Trust of which the beneficiary is the spouse or a minor

As a rule, if an individual (the transferor) transfers or loans property to a trust, it is the trust that must report the income or loss from the property or from property substituted for the property (both referred to as the "property concerned") and the capital gain or loss realized on the subsequent disposition of the property.

However, if the trust is an inter vivos trust in which the transferor's spouse (or a minor related to the transferor, including a niece or nephew) holds a right as a beneficiary, we consider that the transfer or loan of the property concerned is an inter vivos transaction between persons not dealing at arm's length. If the trust allocates to such a beneficiary the income from the property concerned or a capital gain resulting from the subsequent disposition of the property, **it is the responsibility of the transferor (not the beneficiary)** to report the amounts allocated (income attribution rule). You must check the box on line 17 of the return, enter the requested information on line 17a and complete Part 4 of Schedule C.

For his or her taxation year in which the trust's taxation year ends, the transferor must report:

- the **lesser** of the following amounts:
  - the income allocated by the trust to the beneficiary concerned, and
  - the result obtained by multiplying the trust's income from the property concerned by a fraction whose numerator is the income allocated by the trust to the beneficiary concerned and whose denominator is the total income allocated to those beneficiaries who throughout the year were the transferor's spouse or a minor related to the transferor (**including a niece or nephew**);
- where the beneficiary is the spouse, the **lesser** of the following amounts, if the trust disposed of the property during its taxation year:
  - the taxable capital gain allocated by the trust to the spouse, and
  - the net amount of the taxable capital gains and allowable capital losses resulting from the disposition of all the properties so transferred or loaned or property substituted for the property.

Example 1

Mr. X (the transferor) transferred rental property to a personal trust, of which his spouse and adult son are equal beneficiaries. They have the right to receive all the trust's income.

In 2022, the total income of the trust is $1,200 ($1,000 in rental income and $200 in interest). The trust pays $600 to each beneficiary.

Mr. X must report income equal to the **lesser** of the following two amounts:

- the income paid to his spouse ($600);
- the rental income allocable to Mr. X ($1,000).

The trust must therefore issue two RL-16 slips for the amount of $600; one in Mr. X's name and one in his son's name.

Example 2

Mr. Y (the transferor) transferred rental property to a personal trust, of which his spouse and their two sons, ages 16 and 20, are all equal beneficiaries. They have the right to receive all the trust's income.

In 2022, the trust decides to sell the property. The total income of the trust is $1,800 ($1,000 in rental income, $200 in interest and $600 in taxable capital gains from the sale of the property). The trust pays $600 to each beneficiary.

The trust does not designate any capital gains

Mr. Y must report the **lesser** of the following amounts:

- the income allocated to his spouse and to their minor son ($600 × 2 = $1,200);
- the rental income allocable to his spouse and to their minor son ($1,000).

The trust must issue an RL-16 slip to:

- Mr. Y for $1,000;
- the spouse for $100;
- the minor son for $100; and
- the adult son for $600.

The trust designates capital gains

Mr. Y must report $800 in income, which corresponds to the **lesser** of the following amounts:

- the income allocated to his spouse and to his minor son ($1,000 + $200) × 2 ÷ 3 = $800;
- the rental income allocable to his spouse and his minor son ($1,000).

Mr. Y must also report $200 in taxable capital gains, which corresponds to the **lesser** of the following amounts:

- the taxable capital gain allocated to his spouse ($200);
- the taxable capital gain realized on the property ($600).

The trust must therefore issue an RL-16 slip to:

- Mr. Y for $800 in income and $400 in capital gains;
- the minor son for $400 in capital gains; and
- the adult son for $400 in income and $400 in capital gains.

If the beneficiary is the transferor's spouse, only the income and capital gain for a period in which the transferor is the beneficiary's spouse and is resident in Canada can be attributed to the transferor.

If the beneficiary is a minor who is related to the transferor (**including a niece or nephew**), only the income for a period in which the transferor is resident in Canada can be attributed to the transferor.

NOTE

The income attribution rule does not apply:

- if the property is transferred for consideration at least equal to its FMV, or if it is loaned at an interest rate at least equal to the prescribed rate;
- if certain types of income derived from the transferred property are allocated to a beneficiary who is a minor (see section 3.2.3).

462.1, 462.5, 462.8-462.10, 462.15, 462.21

3.2.2 Revocable or blind trust

A trust is said to be a revocable or blind trust if the transferred or loaned property (or the property substituted for that property) can revert to the transferor or be transferred to persons designated by the transferor after the creation of the trust, or if this property cannot be disposed of during the lifetime of the transferor without his or her consent.

If the trust is resident in Canada, it is **the responsibility of the transferor**, during the time the transferor is resident in Canada, to report any income or loss on the property and any capital gain or loss on its subsequent disposition (income attribution rule). **You must check the box on line 18 of the return, enter the requested information on line 18a and complete Part 4 of Schedule C.**

NOTE

The income attribution rule does not apply:

- to the transfer of a share of the capital stock of a private corporation where the share generates dividends or taxable benefits or where the disposition of such a share results in a capital gain that is deemed to be a taxable dividend, and the dividends, benefits or capital gain is paid or payable in the taxation year to a specified individual;
- if the trust:
  - is an employee trust,
  - a trust established under an RPP, a PRPP, a VRSP, a profit-sharing plan, a DPSP, an RESP, an RDSP, an RSUBP, an RRSP, a RRIF, a TFSA or an employee benefit plan,
  - an employee life and health trust,
  - an insurance segregated fund trust,
  - a retirement compensation arrangement (CRA) trust,
  - a trust all or substantially all of whose property is held for the purpose of providing benefits to individuals, for their current or former office or employment,
  - is an environmental trust,
  - is a private foundation that is a registered charity, or
  - received property (or substituted property) from an individual who received it for a child, provided the only beneficiaries of the trust are children for whom benefits were received by the individual (such as the child's parent) who transferred the property to the trust.

467, 467.1

3.2.3 Exception for split income of a minor

Notwithstanding the income attribution rule explained in sections 3.2.1 and 3.2.2, if a trust allocates certain types of income (called "split income") to a beneficiary who is a minor, **it is the minor, not the transferor, who must report the income**. In this situation, the minor must pay a special income tax on this income, calculated at the highest marginal rate on form TP-766.3.4-V, *Income Tax on Split Income*. In some cases, the father or mother is solidarily liable, with the minor, for ensuring the payment of this income tax. The terms "minor" and "split income" are defined in Part 6.

The split income must be entered on the minor's RL-16 slip and certain codes must be entered in the blank boxes. See the *Guide to Filing the RL-16 Slip: Trust Income* (RL-16.G-V) for instructions for the following boxes:

- box A – Canadian and foreign capital gains
- box E – Foreign business income
- box F – Foreign investment income
- box G – Canadian business or property income
- box I – Taxable amount of eligible dividends and ordinary dividends

Split income cannot be designated under subsections 104(13.1) and 104(13.2) of the *Income Tax Act* (federal statute), and must be reported by the minor in his or her income tax return. The amount can subsequently be deducted on line 295 of the minor's return, provided the special tax on split income is being paid (line 443).

However, a minor does not have to report the split income for the taxation year in which the split income is earned by the trust and the income attribution rule applies to the transferor (see sections 3.2.1 and 3.2.2) where:

- the minor was not resident in Canada throughout the taxation year;
- the minor's father and mother were not resident in Canada at any time during the taxation year; or
- the income was allocated to the minor because of the death of:
  - his or her father or mother, or
  - another person, if, for the taxation year, the minor was a full-time student at a post-secondary educational institution, or a tax credit for severe and prolonged impairment in mental or physical functions could be claimed with regard to the minor.

462.24.1

3.2.4 Exception for split income of an adult beneficiary

Since 2018, measures have been in place that broaden the rules regarding the taxation of split income so that they apply to adults resident in Canada who receive split income. Consequently, such adults must pay income tax, calculated using form TP-766.3.4-V, on the portion of their income that is split income.

These rules do not apply to persons engaged in the activities of a business. Such persons can receive income from the business without being subject to the tax on split income.

The amount of split income must be entered on the beneficiary's RL-16 slip. Enter a code describing the split income in a blank box. See the instructions regarding the amounts received by beneficiaries in the *Guide to Filing the RL-16 Slip: Trust Income* (RL-16.G-V).

Solidary liability for the tax on split income

The age of a specified individual determines who is solidarily liable for the payment of the tax on split income. If the specified individual did not reach age 17 before the taxation year concerned, the individual and the individual's parents are solidarily liable for the payment of the tax. If the specified individual reached age 17 before the taxation year concerned, the tax on the income from a related business is the solidary liability of the individual and of each source individual who is sufficiently related to the related business. The relationship required between the source individual and the related business is described in the definition of "related business."

The liability of the parents and of each individual who is related to the specified individual is limited to the amounts included in the specified individual's split income. However, the liability of the specified individual, the individual's parents and of each individual who is related to the specified individual is not limited with respect to interest payable as a result of the application of the measures applicable to the tax on split income.

NOTE

- Income is considered to be business income if it is derived from the supply of property or services or in support of such a supply or if the income is the return from an interest in a trust operating a business.
- Income earned from business income is also considered to be direct or indirect business income.

3.3 Losses on the disposition of property involving an affiliated person

A loss sustained by the trust on the disposition of property involving an affiliated person **is not deductible**. However, the loss may give rise to a carry-over mechanism, with rules that vary according to whether the property concerned is depreciable property or non-depreciable property (see sections 3.3.1 and 3.3.2).

NOTE

Such a loss is deductible in certain circumstances, such as when:

- the trust is deemed to have disposed of:
  - property further to the immigration or emigration of the person, or further to a change in use of the property,
  - a stock option that has expired,
  - a debt that has become a bad debt,
  - a share issued by a corporation that has gone bankrupt or that was insolvent at the time it was wound up;
- the trust becomes exempt or ceases to be exempt from Québec income tax within 30 days following the disposition of the property.

In this section, an "affiliated person" is a person that is **affiliated with the trust**, that is:

- a majority-interest beneficiary of the trust;
- another trust, if a contributor to the other trust is affiliated with a contributor to the trust and a majority-interest beneficiary of one trust is affiliated:
  - with a majority-interest beneficiary of the other trust, or
  - with each member of a majority-interest group of beneficiaries of the other trust;
- a corporation controlled directly or indirectly, in any manner whatever, by the trust or by an affiliated group of persons of which the trust is a member;
- a partnership of which the trust is a majority-interest partner.

In a broader context, a person is considered to be affiliated with:

- his or her spouse;
- a corporation controlled directly or indirectly, in any manner whatever, by the person, the person's spouse, an affiliated group of persons of which the person or the person's spouse (if applicable) is a member;
- a partnership of which the person is a majority-interest partner;
- a trust of which the person is a majority-interest beneficiary.

For the application of the rules for affiliated persons, a **partnership** is considered to be a person.

An **affiliated group of persons** is a group of which each member is affiliated with every other member.

21.0.3

A beneficiary of the trust is a **majority-interest beneficiary** at a particular time if one of the following conditions is met:

- the FMV of all the interests in the income of the trust held by the beneficiary and by all persons with whom the beneficiary is affiliated is greater than 50% of the FMV of all the interests in the income of the trust; or
- the FMV of all the interests in the capital of the trust held by the beneficiary and by all persons with whom the beneficiary is affiliated is greater than 50% of the FMV of all the interests in the capital of the trust.

21.0.1

A person is a contributor to the trust if the person has made a loan or transfer of property to the trust, either directly or indirectly, in any manner whatever, unless the following conditions are met:

- the person deals at arm's length with the trust at the time of the loan or the transfer;
- the person has not become a majority-interest beneficiary of the trust immediately after the loan or transfer; or
- the person makes the loan at a reasonable interest rate or makes the transfer for a consideration equal to the FMV of the property.

The trust is considered, at a particular time, to be a majority-interest partner of a partnership in the following circumstances:

- the trust's share of the partnership's income for the fiscal period ended before that time (or for the first fiscal period including that time, in the case of a new partnership) would have exceeded 50% of the partnership's income from all sources if the trust had held the same interest throughout the fiscal period as the interest that the trust or an affiliated person held in the partnership at that time;
- the trust would have received, together with all affiliated persons, more than 50% of the amount that the partnership would have paid to all partners otherwise than as a sharing of income if the partnership had been wound up at that time.

Identical property is property that is identical in every respect to another property (for example, the properties belong to the same type or class of property or they confer the same rights on their holder). The term "identical property" is also used to designate the right to acquire the other property. Moreover, a share that is acquired in exchange for another share under certain rollover rules is deemed to be property that is identical to the other share.

Shares of the capital stock of a SIFT wind-up corporation in respect of a SIFT wind-up entity that were acquired before 2013 are deemed to be property that is identical to interests in an entity that are an investment in the SIFT wind-up entity.

1, 21.0.1, 21.0.3, 237, 238.2

3.3.1 Non-depreciable property

The trust **cannot deduct a capital loss sustained on the disposition of non-depreciable property** (referred to as the "original property") if:

- in the 30 days that precede and the 30 days that follow the disposition, the trust or an affiliated person acquires substituted property that is, or is identical to, the original property; and
- at the end of the period, the trust or an affiliated person still owns the substituted property or has the right to acquire it.

However, the loss may be deducted later as a loss deemed to have been sustained immediately before the time at which the earliest of the following events occurs:

- The substituted property is disposed of in favour of a non-affiliated person. However, during the 30-day period following the disposition, neither the trust nor an affiliated person may own:
  - the substituted property; or
  - property that is identical to the substituted property and that was acquired during the 30 days that preceded the disposition.
- The substituted property is deemed to have been disposed of. This is the case if:
  - the trust ceases to be resident in Canada at the time it owns the substituted property;
  - the property is a debt that has become a bad debt, or a share issued by a corporation that has gone bankrupt or that was insolvent at the time it was wound up.
- The trust becomes subject to a loss restriction event.

The trust cannot deduct a capital loss sustained on the redemption of shares other than distress shares if the corporation that issued the shares is affiliated with the trust immediately after the transaction. However, if the trust holds a share of the capital stock of the corporation at that time (that is, immediately after the transaction), the amount of the loss may be used to reduce the capital gain that could be realized or to increase the capital loss that could be sustained by the trust on a subsequent disposition of the share. The ACB of each share of the corporation that is held by the trust at that time is increased by an amount obtained by multiplying the amount of the loss by the ratio, at that time, of the FMV of the share to the FMV of all the shares of the corporation held by the trust.

> NOTE
>
> In the case of a succession, if the legal representative of the deceased **elects**, under federal legislation, to report a portion of the loss as a capital loss that the deceased sustains in the year of death, the rules described above apply **only to the portion of the loss not covered by the election**. However, the amount entered on the deceased's return further to the election is limited, as applicable, to the amount of the capital loss calculated for Québec income tax purposes, or the amount entered on the deceased's federal return if the amount of the loss calculated for Québec income tax purposes is greater than the amount of the loss calculated for federal income tax purposes and the succession does not enter the maximum amount of the loss in the federal return.
>
> For more information, see section 5.1.3.

237, 238-238.3

3.3.2 Depreciable property

The trust **cannot deduct a terminal loss** upon the disposition of depreciable property (the "property concerned") if the following conditions are met:

- The following calculation results in an excess amount: subtract the proceeds of disposition of the property concerned (or its FMV at the time of the disposition, if the disposition is made for no consideration or for a consideration that is less than the FMV) from the **lesser** of amounts A and B, where:
  - A is the capital cost of the property,
  - B is the result of the following calculation: $C \times D \div E$, where
    - C is the UCC of all property in the same class immediately before the time of the disposition,
    - D is the FMV of the property at that time, and
    - E is the FMV of all property in the class immediately before that time.
- On the 30th day after the disposition, the trust or an affiliated person owns the same property or has the right to acquire the property (other than, for example, a right, as security only, derived from a hypothec).

The consequences of the disposition are as follows:

- The proceeds of disposition of the property concerned are deemed to be equal to the **lesser** of amounts A and B. Thus, if the property concerned is the last in the class, a terminal loss cannot be claimed.
- The previously mentioned excess amount (the amount by which the lesser of amounts A and B **exceeds** the proceeds of disposition of the property or its FMV, as applicable) is deemed to be the capital cost of hypothetical property that is deemed owned by the trust before the beginning of the taxation year in which this disposition occurs and that is in the same class as the property concerned. Thus, the trust can claim capital cost allowance for the hypothetical property, without applying the half-year rule (50% reduction of the amount of capital cost allowance). The trust is entitled to such a deduction until the time that immediately precedes the earliest of the following events:
  - the trust or an affiliated person no longer owns or has a right to acquire the property concerned for a period of at least the following 30 days (unless the right is a guarantee, such as a mortgage);
  - the trust or an affiliated person ceases to use the property concerned for the purpose of earning income;
  - the trust ceases to be resident in Canada while owning the property concerned (the trust is deemed to have disposed of the property);
  - the trust is subject to a loss restriction event.

If, during the event in question, the trust has no other property in the class, the UCC of that class entitles the trust to a deduction for a terminal loss.

93.3.1

3.4 Restrictions applicable to certain investment trusts with respect to stapled securities

In calculating its income, a given entity that is a SIFT trust or a REIT **cannot** claim a deduction for an amount paid or payable, as the case may be:

- as interest on a debt or obligation that is a stapled security, unless each reference security of the stapled security is also a debt or an obligation;
- to a REIT or a subsidiary of a REIT (or to a person or partnership that pays an amount, or has an amount paid, to such a REIT or subsidiary of a REIT), if a security of the entity or of one of the subsidiaries of the entity, or of an entity of which the entity is a subsidiary, is a reference security of a stapled security issued by the REIT or a subsidiary of the REIT.

This restriction applies to amounts paid or payable by the trust in question **after July 19, 2011**, unless those amounts relate to the trust's transition period.

Generally, if a security held on July 19, 2011, fits the definition of "stapled security," we consider that the trust's transition period began on July 20, 2011, and ended on July 20, 2012. However, under the law, the period can end earlier if certain events took place.

If the trust had a stapled security on October 31, 2006, the transition period ends on January 1, 2016. However, under the law, the transition period can end earlier if such a security was held before October 31, 2006, and certain events took place.

If neither of these situations applies to the trust, and the trust was the subsidiary of another entity on July 20, 2011, and that entity has its own transition period, the trust's transition period ends on the earliest of the following days:

- the day on which the transition period of the other entity ends;
- the day on which the trust ceases to be a subsidiary of another entity; and
- the day on which a security of the trust becomes a stapled security.

NOTE

If a security of the trust ceased to be a stapled security and then became stapled once again, and the trust claimed the above-mentioned deduction in the period during which the security was no longer a stapled security (referred to as the "period of unstapling"), the trust must include in its income the amount of the deduction.

92.31, 92.32, 158.16-158.18

3.5 Trusts subject to a loss restriction event

A tax rule called the "attribute trading restriction" prevents persons dealing at arm's length from trading a corporation's tax attributes by acquiring control of the corporation to take advantage of its unused attributes.

Trusts are now subject to a similar rule, with the necessary adaptations (for example, it is a matter of holding a majority interest in the trust instead of acquiring control of the corporation).

At any time **after March 20, 2013** (the "given time"), if a person becomes a majority-interest beneficiary of a trust or a group of persons becomes a majority-interest group of beneficiaries of a trust, the trust is subject, at that time, to a loss restriction event. The trust can therefore no longer take advantage of certain tax attributes. As a rule, if a tax attribute is a loss (such as a net capital loss, non-capital loss and farm loss), the following restrictions apply:

- If the loss is sustained in a taxation year that ended before the given time, it cannot be carried forward to a taxation year ending after the given time.
- If the loss is sustained in a taxation year that ends after the given time, it cannot be carried back to a taxation year that ended before the given time.

The use of the term "majority-interest beneficiary" in this context is similar, with some differences, to the use of the term in the context of a loss sustained on the disposition of property involving an affiliated person (see section 3.3).

If the trust became subject to a loss restriction event during the year, check box 29 and enter the date on which the trust became subject to a loss restriction event.

21.0.6

Exceptions

In the application of this tax rule, a person is not deemed to become a majority-interest beneficiary of a trust or a group of persons is not deemed to become a majority-interest group of beneficiaries of a trust based solely on the occurrence of one of the following events:

- The trust's equity is acquired by:
  - a person affiliated with the trust immediately before the acquisition;
  - a person from another person with which the person was affiliated immediately before the acquisition;
  - a succession from a person following the person's death; or
  - a person from the succession of an individual who was affiliated with the person immediately before the individual's death.
- The terms of the trust are amended or certain transactions are made in accordance with the terms of the trust or in accordance with a decision of a trustee, if each majority-interest beneficiary of the trust or each member of a majority-interest group of beneficiaries of the trust immediately after such an event was affiliated with the trust immediately before that time.
- All of the trust's equity is transferred to a corporation, a partnership or another trust (referred to as the "acquirer"), if the only consideration for the transfer is equity (other than a debt) of the acquirer and the acquirer is a new entity (an entity that never held, before the transfer, property other than property having nominal value) that will not afterwards become a subsidiary of another entity.

- At a given time, some of the trust's equity is transferred to a corporation, a partnership or another trust, provided all of the following conditions are met:
  - immediately before the given time, a person is a majority-interest beneficiary of the trust or a group of persons is a majority-interest group of beneficiaries of the trust (the "person or group of persons concerned");
  - immediately after the given time, the person or group of persons concerned, as the case may be, and no other person or group of persons, is:
    - if the acquirer is a corporation, a person by whom, or a group of persons by which, the corporation is controlled directly or indirectly, in any manner whatever,
    - if the acquirer is a partnership, a majority-interest partner, or a majority-interest group of partners, of the partnership,
    - if the acquirer is a trust, a majority-interest beneficiary, or a majority-interest group of beneficiaries, of the trust;
  - at no time during a series of transactions or events that includes the transfer did the person or group of persons concerned, as the case may be, cease to be a person or group of persons described in any of the three above paragraphs in respect of the acquirer.
- The acquisition or the disposition of equity by a trust that is an investment fund (see the definition in Part 6) takes place immediately before the acquisition or disposition, and the acquisition or disposition is not part of a series of transactions or events that includes the trust ceasing to be an investment fund.

21.0.7

Deemed end of taxation year

If a trust is subject to a loss restriction event in a taxation year, the trust's taxation year **is deemed** to end immediately before the acquisition of control of the trust. However, the trust's taxation year **is not deemed** to end immediately before the acquisition of control of the trust for the purposes of determining the deadline for filing the *Trust Income Tax Return* (TP-646-V) and RL-16 slips, for the payment of a balance of income tax and for making the election to be considered a mutual fund trust under federal legislation.

NOTE

- For the purposes of a loss restriction event, a partnership is considered to be a person.
- The definition of the term "equity" is the same as the definition in Part 6, except it does not include a right to the equity.
- The restrictions applicable to the carryover of a loss do not apply to non-capital losses and farm losses if the trust sustains the losses in the operation of a for-profit business or a business carried on with a reasonable expectation of profit:
  - throughout the year to which the loss is carried forward (loss sustained before the given time);
  - throughout the year in which the loss was sustained and in the year to which the loss is carried back (loss sustained after the given time).
- The term "business" used in the previous point includes an adventure or a concern in the nature of trade.

21.0.1, 21.0.5

3.6 Thin capitalization rules

Rules called "thin capitalization rules" limit the ability of trusts to deduct the interest they paid on debts owing to specified non-resident beneficiaries. The following trusts are subject to the rules if they earned business or property income in a taxation year and they are required to file an income tax return:

- a trust resident in Canada;
- a trust having activities in Canada, but that is not resident there;
- one of the above-mentioned trusts that is a member of a partnership.

Such trusts cannot deduct the interest they paid on the portion of the debts owing to specified non-resident beneficiaries that exceed the authorized 1.5-to-1 debt-to-equity ratio.

If a portion of the debts owing to specified non-residents is allocated to the trust by a partnership and the interest paid by the partnership on this portion of debts owing is deductible in the calculation of the partnership's business or property income, the trust must add to its share of such an income an amount equal to the portion of the interest that exceeds its authorized debt-to-equity ratio.

More specifically, to determine the amount of interest that the trust cannot deduct (for the debts it contracted) or the amount that it must add to its share of a partnership's business or property income (for the debts contracted by the partnership), the trust must use the **excess debt ratio**, calculated as follows:

- $A \times 1.5 = B$, where
  - A is the equity, and
  - B is the amount of authorized debt;
- $C - B = D$, where
  - C is the debts owing to specified non-resident beneficiaries, and
  - D is excess debts;
- $D \div C = E$, where
  - E is the excess debt ratio.

See the definitions of the terms "specified beneficiary," "debts owing to specified non-residents" and "equity amount" in Part 6.

169-172

3.7 Non-deductible losses in the calculation of the adjusted taxable income for AMT purposes

In calculating the adjusted taxable income for AMT purposes, an individual (including a trust) who holds an interest in a partnership as a limited partner or as a specified member (since becoming a member of a partnership), or whose interest in a partnership is a tax shelter, can deduct a limited amount of the partnership's capital losses, business losses or property losses.

However, since the 2012 taxation year, such losses have been deductible in the calculation of the individual's adjusted taxable income, **except** where the individual's interest in the partnership is a tax shelter. The relief measure also applies to the 2003 through 2011 taxation years if the individual filed proof of the election with the Minister of Revenue before January 24, 2016.

3.8 Use of a trust for cross-border surplus-stripping

The paid-up capital of the shares of a Canadian corporation generally represents the amount of capital that has been contributed to the corporation by its shareholders. The paid-up capital is a tax attribute because it can be returned to the shareholders free of tax. It is also included in the determination of a corporation's equity under the thin capitalization rules, which can increase the amount of its deductible interest expenses (see section 3.6). The amounts distributed to the shareholders that exceed the paid-up capital are usually treated as taxable dividends. These dividends are subject to income tax if they are received by non-resident shareholders.

Certain non-resident individuals may obtain tax benefits through a transfer of the shares of one corporation resident in Canada to another such corporation (the "Canadian purchaser corporation") with which they are not dealing at arm's length, in exchange for shares of the Canadian purchaser corporation or other forms of consideration.

The cross-border anti-surplus-stripping rule is intended to prevent non-residents from using deemed dividends or a reduction of paid-up capital to extract free of tax a corporation's surplus in excess of the paid-up capital of its shares, or to artificially increase the paid-up capital of such shares.

Since February 27, 2018, this rule has applied to transactions involving a trust. The trust has to allocate its assets, liabilities and transactions to its beneficiaries based on the relative FMV of the beneficiaries' interests in the trust.

4 INSTRUCTIONS FOR COMPLETING THE RETURN

4.1 Information about the trust

1a to 1b

Effective March 26, 2021, a trust must get an identification number before filing its first income tax return with us. Failure to provide this information may result in penalties.

To get the number, the trust can:

- use the new online service in My Account for individuals, My Account for businesses or My Account for professional representatives; or
- file form LM-58.1.2-V, *Application for a Trust Identification Number*.

If the trust is not filing its first return, you must enter the **10-digit identification number shown on a previous notice of assessment**. Make sure you enter it correctly. Entering this number will reduce the time it takes to process the return.

On line 1a1, enter the trust's account number, which is shown on the federal *Trust Income Tax and Information Return* (form T3RET).

Enter the trust's name as it appears (or will appear) on all income tax returns and correspondence.

2a to 3g

Enter the name and identification number of the trustee or the liquidator of the succession (or the last and first names and social insurance number, in the case of an individual), as well as the mailing address and telephone number.

If there is more than one trustee or liquidator, you must designate a primary representative.

NOTE
- If the trustee is a natural person, the notice of assessment issued to the trust is sent to the trustee's residence.
- If the trustee is a natural person who is acting as a trustee as part of his or her profession or business, the notice of assessment issued to the trust can be sent to the trustee's place of business provided the trustee makes a request in writing and we accept it.
- If the trustee is a legal person, the notice of assessment issued to the trust is sent to the legal person's head office (the address shown on the annual updating declaration sent to the Registraire des entreprises).

4

In the case of a deemed resident trust, enter the code for the actual country of residence.

See section 1.8 for the country code to enter.

5a and 5b

Enter the start and end date of the taxation year covered by the return.

6 and 6a

If the trust is an inter vivos trust, check box 6 and enter the date on which the trust was created on line 6a.

7 to 7c

If the trust is a testamentary trust, check box 7 and enter the date of death on line 7a and the social insurance number of the person whose death determined the existence of the trust on line 7b.

If the testamentary trust is a succession, also check box 7c. Furthermore, if the trust is a GRE, you must check box 26.

If the trust is a QDT, you must check box 27 and enter the social insurance number of the beneficiaries who qualify for the disability tax credit.

8 to 8b

On line 8, enter the code from the table below that corresponds to the type of trust in question. For more information, see section 1.7 of the guide.

Code	Type of trust
1	Spousal trust
2	Joint spousal trust
3	Alter ego trust or self-benefit trust
4	Trust for a beneficiary under 21 years of age
4a	Graduated rate estate
4b	Qualified disability trust
5	Deemed trust
6	Personal trust, other than one of the trusts listed above*
7	Unit trust, other than a mutual fund trust or a SIFT trust
8	Mutual fund trust, other than a SIFT trust
9a	Insurance segregated fund trust – fund registered in whole or in part**
9b	Insurance segregated fund trust – non-registered fund
10	Master trust
11	Employee trust
12	Employee benefit plan
13	Non-profit organization
14	Religious organization
15	Employee life and health trust
16	Amateur athlete trust
17	SIFT trust
18	Other type of trust

* The trust may be a succession, a lifetime benefit trust, etc.

** Enter code 9a if all or part of the funds were held under a registered pension plan or under a TFSA. Otherwise, enter code 9b.

If you enter code 6 or code 18, you must specify the type of trust on line 8a.

You must check box 8b if the trust is a specified trust.

646, 649.1

9 to 32	

Check the appropriate boxes and, where applicable, enter the requested information.

Provide complete and accurate information. Attach any requested documents.

On **line 11**, enter the wind-up date if the return being completed is a **final return**. This date must match the date shown on line 5b. For more information, see section 1.6.

On **lines 12a and 12b,** enter the total assets and the total liabilities as shown in the trust's registers. The amounts to be entered must correspond, respectively:

- to the total of the cost amounts of **all the assets** (liquid assets, investments, immovables, automobiles, boats, property, etc.); and
- to the value of **all loans and debts** (lines of credit, mortgages and any other kind of loan) at the end of the trust's taxation year.

On **line 13a**, enter the code corresponding to the country in which the trust was resident if the trust was not resident in Canada during the taxation year. The list of country codes is given in section 1.8.

Concerning **line 14**, the distribution of the property of the succession is not considered to be a change in interests.

If you checked **box 17** and the year of the transfer or loan entered on **line 17a** is the taxation year covered, enclose a note providing a description of the property, the name and address of the transferor, and the relationship between the transferor and the trust's beneficiary or beneficiaries. If income from the property is being allocated to a minor, also provide the type of income and the amount.

If you checked **box 18** and the year of the transfer or loan entered on **line 18a** is the taxation year covered, enclose a note providing a description of the property and the name and address of the transferor. If income from the property is being allocated to a minor, also provide the type of the income and the amount.

4.2 Net income and taxable income

As a rule, all amounts from foreign sources must be converted into **Canadian dollars**. For exchange rate information, see the Bank of Canada's website at **bank-banque-canada.ca**.

21.4.17

50, 51 and 52	Investment income

If the trust earned investment income, complete Schedule B and carry the income to lines 50, 51 and 52 in the return (see the instructions for Schedule B in section 5.2).

Actual amount of dividends from taxable Canadian corporations

On line 50, enter the actual amount of all eligible dividends and all ordinary dividends that the trust received or is deemed to have received from taxable Canadian corporations (for example, the dividends entered in boxes A1 and A2 of the RL-3 slip).

497

Other investment income from Canadian sources

On line 51, enter the total interest and other investment income from Canadian sources (such as the amounts entered in boxes D, E and H of the RL-3 slip). In the case of a succession, the interest accrued to the date of death must be reported in the deceased person's income tax return, rather than in the return filed by the succession.

Foreign investment income

On line 52, enter, in Canadian dollars, the total gross foreign investment income, that is, the amount of net income received, **plus** foreign income tax withheld at source. Use the exchange rate in effect at the time the income was received by or credited to the trust, or the average annual exchange rate if the income was received over the entire taxation year. For exchange rate information, see the Bank of Canada's website at **bank-banque-canada.ca**.

Enclose all information slips on which such income is shown with the return.

53 Taxable capital gains

Complete Schedule A if the trust disposed of property during the taxation year or if it must report a reserve with respect to a capital gain realized in a previous taxation year.

On line 53 of the return, enter the taxable capital gains realized by the trust during the taxation year (amount from line 230 of Schedule A, if positive). To determine the amount of the capital gains that may be designated in favour of the beneficiaries, complete Part 3 of Schedule A. See the instructions for completing Schedule A in section 5.1.7.

28(b), 467

Tax exemption for capital gains realized on the donation of certain property

Capital gains realized on the donation of the following property are generally tax-exempt:

- **securities**, such as a share, debt obligation or right listed on a designated stock exchange, a share of the capital stock of a mutual fund corporation, a mutual fund unit, an interest in an insurance segregated fund trust, a bond, debenture, note, debt obligation or similar obligation issued or guaranteed by the Government of Canada or issued by a provincial government or by a mandatary of a provincial government, if the trust made the donation to a charity or other qualified donee;
- **ecological property** (land with ecological value or a real servitude encumbering such land) if the trust made the donation to a registered charity or other qualified donee (other than a private foundation). **Since March 22, 2017**, certain gifts of personal servitudes encumbering land have also been considered gifts of property with ecological value if they meet certain conditions (for example, the servitude must have a term of not less than 100 years). See the new rules applicable to this type of gift in the instructions for line 123;
- a **musical instrument** donated to a recognized educational institution;
- cultural property, if the trust donated such property (whether or not the trust received any consideration in exchange) to an establishment or a public administration in Canada and designated by the Minister of Canadian Heritage, to a certified archival centre or to a Québec museum, and the trust received a document certifying that the property is cultural property. For more information see *Capital Gains and Losses* (IN-120-V).

Note that, **as of March 19, 2019**, gifts of cultural property can be eligible for the capital gains exemption even if the property is not considered to be "of national importance."

The tax exemption also applies to gifts made (or deemed to be made) further to a death that occurs after December 31, 2015, to a qualified donee by a GRE at the time the donated property (or property substituted for the property) is transferred or by a succession that:

- has ceased to be a GRE solely because it has existed for more than 36 months after the death; and
- transfers property to the donee within 60 months following the death.

Where the above-mentioned securities are acquired after March 21, 2011, and are included in a flow-through share class of property, a portion of the capital gain realized on the donation may be exempt from income tax if the total capital gains realized by the trust on the disposition (donation or any other form of disposition) of the property of that class exceeds the original cost of all the property (the deemed zero cost of flow-through shares does not apply). For more information, see guide IN-120-V.

A capital loss sustained on such a donation must be reported in Schedule A.

> NOTE
> If a benefit is obtained as consideration for the donation of ecological property or of the above-mentioned securities, see the instructions for lines 202, 203 and 204 of Schedule A.

232, 710.0.1

Capital gains tax exemption for exchangeable securities

The trust may realize a capital gain on the exchange of unlisted securities for publicly traded securities that it subsequently donates to a qualified donee.

This capital gain is tax exempt if the following conditions are met:

- at the time the unlisted securities were issued, a condition provided that the holder could exchange them for publicly traded securities;
- the publicly traded securities are the only consideration received in the exchange; and
- they are donated within 30 days of the exchange.

For the purposes of such a measure, unlisted securities are shares or partnership interests. However, in the case of partnership interests, special rules provide that only capital gains that reflect economic appreciation of the interests are tax exempt. The portion of capital gains attributable to a reduction of the ACB is not tax exempt. The taxable portion of the gains corresponds to the lesser of the following amounts:

- the capital gain otherwise determined; and
- the amount by which, for the trust, the cost of the exchanged interests exceeds the ACB of the interests (distributions of capital received by the trust for the interests must not be taken into account to determine the ACB).

A capital loss sustained in such situations is reported as is in Schedule A.

The tax exemption also applies to gifts made (or deemed to be made) further to a death that occurs after December 31, 2015, to a qualified donee by a GRE at the time the donated property (or property substituted for the property) is transferred or by a succession that:

- has ceased to be a GRE solely because it has existed for more than 36 months after the death; and
- transfers property to the donee within 60 months following the death.

Capital gains deduction

Where applicable, a **personal trust** that was resident in Canada throughout the taxation year and that designates as a taxable capital gain an amount allocated to a beneficiary resident in Canada must also designate the portion of the capital gain that was realized on qualified farm or fishing property or QSBCSs. By designating a gain on QSBCSs, the beneficiary can claim a deduction for taxable capital gains. This designation may also apply to farm or fishing income derived from the disposition of incorporeal capital property that is allocated to the beneficiary. For more information, see the instructions for Schedule C in section 5.3.

668.1

Losses on dispositions involving an affiliated person

If the trust sustained a loss on a disposition of property involving an affiliated person, see section 3.3.

54 Pension benefits

In the case of a testamentary trust, enter the total pension benefits received, such as:

- life annuity payments under a pension plan, income-averaging annuities and ordinary annuities;
- a single payment from a pension plan, a foreign retirement arrangement or a DPSP.

The portion of a single payment that is accrued to December 31, 1971, and not allocated to the beneficiaries may be taxed at a reduced rate if the trust so elects. If the trust makes this election, do not enter the amount on line 54; contact us to find out the amount of the tax adjustment to be entered on line 121 of the return.

Death benefits paid under the QPP or the CPP must be reported on line 61.

312(c), 317

55a and 55 Business income (or loss)

Enter the gross income and the net income (or net loss) resulting from the operation of a business other than a farming or fishing business. The accrual method of accounting must be used to calculate the income. Enclose with the return the income statement and balance sheet of each business.

As of March 18, 2016, a trust that is a certified forest producer (or a trust that is a member of a partnership that is a certified forest producer) under the *Sustainable Forest Development Act* in respect of a private forest can ask to average a portion of its income derived from non-retail sales of timber produced in a private forest to purchasers who have an establishment in Québec. To be eligible for this deduction, the trust must be resident in Québec at the end of the taxation year. Income averaging consists of deducting a portion of the income derived from the non-retail sale of timber produced in a private forest from the trust's taxable income and gradually including the deducted portion in its taxable income over a period not exceeding 7 or 10 years, depending on the date of the sale.

For a taxation year that includes March 10, 2020, and for any subsequent taxation year, you must determine the portion of the amount applicable to sales made before this date to calculate the maximum averaging period.

For example, if a sale of timber subject to the income-averaging mechanism was concluded before March 10, 2020, all or part of the amount deducted respecting the sale for a year must be included in the calculation of the trust's taxable income for one or more of the seven following years, regardless of the taxation year in which the income from that sale was earned. For each of the six taxation years following the year for which the deduction was claimed, the trust must include in the calculation of its taxable income at least 10% of the amount deducted, up to the amount by which the amount deducted exceeds the aggregate of the amounts already included. In the seventh year following the year for which the deduction was claimed, the trust must include the portion of the amount that has yet to be included in this calculation.

However, if a sale of timber subject to the income-averaging mechanism was concluded after March 9, 2020, all or part of the amount deducted respecting the sale for a year must be included in the calculation of the trust's taxable income for one or more of the ten following years. For each of the ten taxation years following the year for which the deduction was claimed, the trust must include in the calculation of its taxable income at least 10% of the amount deducted, up to the amount by which the amount deducted exceeds the aggregate of the amounts already included.

Regardless of the date on which the sales were concluded, the trust must include in the calculation of its income any amount deducted that was not included in the year where:

- the trust disposes of the private forest;
- the trust ceases to be a member of the partnership; or
- the fiscal period in which the partnership disposes of the private forest ends.

Complete form TP-726.30-V, *Income Averaging for Forest Producers*, to determine the amount to be deducted on line 94, and the amount to be included on line 98.1, of the return and enclose it with the return. If this is the first year in which you ask to average income, enclose a copy of the certified forest producer certificate issued under the *Sustainable Forest Development Act* with respect to the private forest for which the deduction is being claimed.

If the trust received amounts under a disaster relief program, see *The Tax Effects of Financial Assistance Received as a Result of a Disaster* (IN-125-V).

726.42-726.44

Virtual currency

Use of virtual currency in the operation of a business can have tax consequences for a trust if, for example:

- the trust exchanges or sells virtual currency on a regular basis, speculating on its value;
- the trust accepts virtual currency as a payment method for the sale of goods or services.

There may be tax consequences if a trust operates a cryptocurrency mining business and the trust receives a bonus as consideration for services rendered.

In any case, you must check box 31 of the trust return if the trust received or disposed of virtual currency in the year.

For more information on the tax consequences of the use of virtual currency in the operation of a business, see guide IN-155-V, *Business and Professional Income*.

Barter

The exchange of goods or services for other goods or services, without the use of money.

Blockchain

A secure, distributed database that stores transactions between users, from the date of its creation, in a chronologically ordered sequence of blocks that are linked together.

Cryptocurrency

Virtual currency, used as a peer-to-peer method of payment or medium of exchange, usually independently of the banking system or any monetary policy, whose issuance and transactions are based on blockchain technology.

Mining

Operation, based on a consensus mechanism, that enables blocks to be added to a cryptocurrency network in exchange for a block reward.

Virtual currency

Digital currency that can be used to buy goods or services or for purposes of speculation whose legal value is generally not guaranteed by the government.

Fiscal period

Income that the trust derives from a business whose fiscal period does not end on December 31 must be adjusted for the calendar year in which the income was earned, rather than on the basis of the business's fiscal period.

This rule does not apply to a business carried on by a trust that is a GRE or by a partnership of which such a trust is a member.

The end date of the fiscal period of a business operated by a trust must be the same as the one covered by the federal return (T3). The **election** made under federal legislation to have the fiscal period of a business carried on by the trust not correspond to the calendar year is automatically deemed to be made for the purposes of Québec legislation. Therefore, you must send us proof (a copy of federal form T1139) that such an election was made with the CRA and written notification no later than the filing deadline for the return or 30 days after the election was made (whichever is later). You must also enclose a duly completed copy of form TP-80.1-V, *Calculation of Business or Professional Income*, *Adjusted to December 31*, with these documents.

For more information, see *Business and Professional Income* (IN-155-V) or contact us.

7, 7.0.3, 217.2

Labour costs

You must provide the names of any persons (other than employees of the trust) to whom the trust paid labour costs related to renovations, improvements, maintenance or repairs to an immovable (including land) that is located in Québec and is used for rental purposes or in order to carry on a business. To meet this requirement, complete form TP-1086.R.23.12-V, *Costs Incurred for Work on an Immovable*, and enclose it with the return. The trust is liable to a penalty if the information is not provided.

The trust must also complete the form if it was a member of a partnership that paid labour costs to persons other than the partnership's own employees, unless another member of the partnership was designated to file the form.

1086R88

Incorporeal capital property

Since 2017, incorporeal capital property has been depreciable property included in the new class 14.1 of Schedule B to the *Regulation respecting the Taxation Act*. It is therefore subject to the usual rules applicable to depreciable property, including the rules regarding the recapture of capital cost allowance and capital gains. The half-year rule (50% reduction of the net amount of acquisitions) also applies to property in this class. Transitional rules are in place for property acquired before 2017 that is disposed of in 2017 or later.

Note that property acquired after **December 3, 2018**, that is qualified intellectual property (see the definition in Part 6) and that was included in class 14.1 gives entitlement to the additional CCA of 30%. Consequently, a trust can claim an additional CCA of 30% of the amount of CCA for the property for the **preceding taxation year**.

Property of a same class that gives entitlement to the additional CCA of 30% must be included in a separate class. The additional CCA does not reduce the UCC of the property and cannot be recaptured upon disposition of the property.

For more information concerning incorporeal capital property, see *Business and Professional Income* (IN-155-V) or contact us.

Net business income (or net business loss) allocated by a partnership

Enter on line 55 the net business income (or net business loss) allocated by a partnership.

> NOTE
> In the case of a personal trust that is a specified member, complete Part 3 of Schedule B.

56a to 57 Farm or fishing income (or loss)

Enter the gross income and the net income (or net loss) from the operation of a farming or fishing business on lines 56a and 56 or on lines 57a and 57, as applicable. The cash or accrual method of accounting can be used to calculate the income. However, you can use the cash method of accounting only if you have elected to do so under federal legislation. Once you have chosen one of these methods, you must use it for each subsequent taxation year. If you wish to change methods, contact us.

If the trust received amounts under a disaster relief program, see *The Tax Effects of Financial Assistance Received as a Result of a Disaster* (IN-125-V).

Enclose an income statement for each farming or fishing business, as well as any information slips, such as the RL-21 slip (boxes A and C), on which such income is shown.

Fiscal period

See "Fiscal period" in the instructions for lines 55a and 55.

Restricted farm loss

If the trust's principal source of income for the taxation year is neither agriculture nor a combination of agriculture and another source of income, the amount that the trust can deduct as a farm loss for that year is **limited** to the **lesser** of:

- the amount of the farm loss for the year; and
- $2,500 **plus** the **lesser** of the following amounts:
  - one-half of the amount by which the farm loss exceeds $2,500,
  - $15,000.

You must enter the deductible amount of the loss on line 56. The non-deductible portion of the loss for the year is a restricted farm loss that can be used to reduce the farm income of the three previous years or the next twenty years.

205, 207, 728.1

Incorporeal capital property

Since 2017, incorporeal capital property has been depreciable property included in class 14.1 of Schedule B to the *Regulation respecting the Taxation Act*. It is therefore subject to the usual rules applicable to depreciable property, including the rules related to the recapture of CCA and capital gains. The half-year rule (50% reduction of the net amount of acquisitions) also applies to property in this class. Transitional rules are in place for property acquired before 2017 that is disposed of in 2017 or later.

Note that property acquired after **December 3, 2018**, that is qualified intellectual property and that was included in class 14.1 gives entitlement to the additional CCA of 30%. Consequently, the trust can claim an additional CCA of 30% of the amount of CCA for the property for the **preceding taxation year**.

Property of a same class that gives entitlement to the additional CCA of 30% must be included in a separate class. The additional CCA does not reduce the UCC of the property and cannot be recaptured upon disposition of the property.

For more information, see *Business and Professional Income* (IN-155-V) or contact us. For instructions on how to calculate farm or fishing income derived from the disposition of incorporeal capital property, see *Capital Gains and Losses* (IN-120-V).

58a and 58 Rental income (or loss)

Enter on lines 58a and 58 the gross income and the net income (or net loss) resulting from the rental of property (house, apartment, room or other property).

If the trust received amounts under a disaster relief program, see *The Tax Effects of Financial Assistance Received as a Result of a Disaster* (IN-125-V).

To calculate the net income (or net loss) resulting from the rental of immovable property, complete form TP-128.F-V, *Income Earned by a Trust from the Rental of Immovable Property*. If the immovable is a **specified immovable** (see the definition in Part 6), also complete Schedule G.

Labour costs

You must provide the names of any persons other than employees of the trust to whom the trust paid labour costs for renovations, improvements, maintenance or repairs to an immovable (including land) that is located in Québec and is used for rental purposes or in order to carry on a business. Complete form TP-1086.R.23.12-V, *Costs Incurred for Work on an Immovable*, and enclose it with the return. Where the trust was a member of a partnership that paid labour costs to persons other than the partnership's own employees, the trust must also complete the form, unless another member of the partnership was designated to file the form.

The trust is liable to a penalty if the form is not filed.

1086R88

Rental income (or loss) allocated by a partnership of which the trust is a specified member

Also enter on line 58 the rental income (or loss) allocated by a partnership of which the trust is a specified member.

NOTE
In the case of a personal trust, complete Part 3 of Schedule B.

59 Amount withdrawn from a net income stabilization account (NISA)

Enter the amount withdrawn from the NISA Fund No. 2 under the AgriStability, AgriInvest or Agri-Québec program.

Any amount withdrawn from Fund No. 2 of the account is taxable and is considered to be property income for the trust. The income includes amounts received or deemed to have been received from a third party (such as bonuses and government contributions, and the interest on such amounts). Enclose the RL-21 slip and enter on line 59 the amount from box D of the slip.

Death of the beneficiary spouse

Upon the spouse's death, the balance of the account is deemed paid to the trust and must consequently be included in the trust's income. **As of 2016**, the trust and the legal representative of the deceased spouse can no longer elect to include all or part of the amount in the deceased spouse's final income tax return, rather than in the trust's income tax return. However, under certain conditions, the trust's income can be included in the calculation of the beneficiary's income for the taxation year during which the trust's taxation year ended.

1, 92.5.2, 656.3, 657(a)

60 Income (or losses) relating to a deemed sale applicable to certain trusts

Enter the income (or losses) shown on line 30 of form TP-653-V, *Deemed Sale Applicable to Certain Trusts*, such as:

- recapture of CCA in the case of depreciable property;
- income (or loss) relating to resource property or land that is included in a business's inventory.

A capital gain (or loss) determined on this form should be entered on line 213d of Schedule A, not on line 60 of the return.

653, 656, 656.1, 656.2

61 Other income

Enter the total of all other income of the trust that has not already been entered on lines 50 through 60. For a testamentary trust, this income may be amounts that it received after a death (employment-related income, a death benefit paid under the QPP or the CPP, a pension plan benefit or a benefit from a foreign retirement arrangement or income earned from an RRSP or RRIF after the death).

You must enter on line 61a the code below that corresponds to the type of income reported on line 61:

01 Employment-related income (other than a death benefit derived from an office or employment)
02 Death benefit derived from an office or employment
03 Death benefit paid under the QPP or the CPP
04 Income-averaging annuity for artists
05 Income earned from an RRSP or RRIF after death
06 Additional income of a mutual fund trust
07 Other income

If the trust is reporting more than one type of income, enter 99.

01 Employment-related income

In general, employment income paid after an individual's death must be entered in the deceased's income tax return. However, the following income related to the individual's employment must be reported in the income tax return of the individual's succession:

- severance pay payable upon the individual's death (referred to as a "death benefit derived from an office or employment") that may qualify for a $10,000 exemption (see the instructions below);
- retroactive severance pay (paid after the individual's death), regardless of the date on which the collective agreement was signed;
- refunds, upon the individual's death, of contributions to a pension plan;
- retiring allowance paid after the individual's death, except the portion that the deceased was entitled to, but did not receive before death.

02 Death benefit derived from an office or employment

A death benefit may also be paid by an employer in recognition of the services rendered in respect of an office or employment. If the death benefit is paid to the trust, the trust can claim an exemption of up to $10,000.

If the benefit is paid over a period of more than one year, the $10,000 exemption must apply in sequence to reduce or cancel the total amount of the benefit payments received.

As of 2016, if the trust must allocate the death benefit to one or more beneficiaries, the benefit can qualify as a death benefit only if the trust is a GRE. In this case, the beneficiaries are entitled to the $10,000 exemption. See the instructions and examples below.

(a) Exemption deducted by the trust

If the trust elects to deduct the exemption from its own income and the net amount of the benefit is not reduced to zero, enter the net amount on line 61 and allocate it to the beneficiary or beneficiaries, as applicable.

Enclose the RL-1 slip issued by the employer of the deceased with the return.

(b) Exemption not deducted by the trust

If the trust does not deduct the exemption, you must enter the gross amount of the benefit on line 61.

Where the death benefit is paid to only one beneficiary and the payments are made over a period of more than one year, the following rules apply:

- For the first year, the exemption applies to the aggregate of the amounts received in the year, to a maximum of $10,000.
- For subsequent years, the portion of the exemption the beneficiary can claim is equal to the maximum exemption of $10,000 minus the aggregate amount of the exemption claimed in previous years.

If the death benefit is paid to more than one beneficiary, the exemption granted to each beneficiary must not exceed the **lesser** of the following amounts:

- the amount that the beneficiary received in the year;
- the result obtained by multiplying $10,000 by the ratio between the amount the beneficiary received and the total amount of the benefit.

If the benefit payments are made over a period of more than one year, this calculation must be done each year.

Enclose the RL-1 slip issued by the employer of the deceased with the return.

Example 1

The sole beneficiary of a death benefit of $13,000 received $6,000 in 2022 and will receive $7,000 in 2023. The exemption to which the beneficiary is entitled is:

- $6,000 for 2022 (the amount received, up to $10,000);
- $4,000 for 2023 (the amount received, up to the result of $10,000 – $6,000).

Enter $6,000 in box G of the RL-16 slip for 2022, and enter "G-7" in a blank box, followed by the amount of $6,000.

Enter $7,000 in box G of the RL-16 slip for 2023 and "G-7" in a blank box, followed by the amount of $4,000.

Example 2

A surviving spouse and that person's son each receive 50% of a death benefit of $12,000. The benefit is paid over two years. $4,000 is paid in 2022 and $8,000 is paid in 2023. Since the benefit is paid to more than one person, the exemption for each person corresponds to the lesser of the following amounts:

- for 2022:
  - 50% of $4,000, that is $2,000,
  - ($10,000 × $2,000) ÷ $12,000, that is $1,666;
- for 2023:
  - 50% of $8 000, that is $4,000,
  - ($10,000 × $4,000) ÷ $12,000, that is $3,333.

Enter $2,000 in box G of each beneficiary's RL-16 slip for 2022, and enter "G-7" in a blank box, followed by the amount of $1,666. Enter $4,000 in box G of the RL-16 slips for 2023 and "G-7" in a blank box, followed by the amount of $3,333.

3, 4

03 Death benefit paid under the QPP or the CPP

Enter on line 61 the amount of the death benefit paid under the QPP or the CPP, even if the amount was paid to a third party that paid the funeral expenses.

However, the death benefit may be included in the income of one or more beneficiaries of the trust if the succession has no other source of income, in which case the succession would be released from the obligation to file an income tax return.

317.2

04 Income-averaging annuity for artists

A testamentary trust that received an amount under an income-averaging annuity for artists may be required to redistribute all or part of the amount to a beneficiary. In this case, you must enter:

- in box G of the beneficiary's RL-16 slip the amount allocated in that regard; and
- "G-10" in a blank box of the slip, followed by the amount of income tax withheld on that amount.

312(c), 312(d.1), 669.5

05 Income earned from an RRSP or RRIF after death

Post-death income from an RRSP or RRIF is shown in box K of the RL-2 slip issued in the succession's name.

921.1, 961.16.1

06 Additional income of a mutual fund trust

The trust can include on line 61 an amount designated as additional income if, as applicable:

- the trust elected to have its taxation year end on December 15;
- the trust is a mutual fund trust throughout the year and has not made a designation under the first paragraph of section 663.1 or the first paragraph of section 663.2 of the *Taxation Act*.

You must report in Schedule C any portion of additional income that is allocated to a beneficiary during the taxation year (and file an RL-16 slip in the name of the beneficiary accordingly), but can deduct the amount on line 81 of the income tax return for the following taxation year only.

1121.12, 1121.13

07 Other income

Enter the other income received by the trust, such as:

- the recovery of resource deductions (where the cumulative amount of Canadian exploration expenses, Canadian development expenses or foreign resource expenses [box A or box B of the RL-11 slip, or box 28, box 29 or box 31 of the RL-15 slip] is negative);
- the qualifying performance income of an athlete, as well as the interest and other income derived from property held by the trust, in the case of an amateur athlete trust;
- accumulated income payments from an RESP (box O of the RL-1 slip).

330(d)-330(e.1), 669.1, 851.34, 904.1

64 Carrying charges and interest expenses

Enter the amount from line 319 of Schedule B. Carrying charges and interest expenses related to investment expenses include:

- interest paid or payable on amounts borrowed to earn investment income;
- interest on a life insurance policy loan contracted to earn investment income, provided the interest is not added to the ACB of the policy. To claim a deduction in this respect, you must have the insurer complete form TP-163.1-V, *Interest Paid on a Loan Taken Out on a Life Insurance Policy*, no later than 90 days after the end of the trust's taxation year;
- management and safekeeping fees for shares and securities;
- accounting fees for investment income; and
- fees (other than commissions) paid to a person (or partnership) for advice on the advisability of purchasing or selling securities, or for services relating to the administration or management of securities, if the principal business of the person (or partnership) is providing such advice or services.

Do not include brokerage fees incurred upon the purchase or sale of securities. Brokerage fees paid upon the sale of a security may be deducted from the selling price; brokerage fees paid to purchase a security must be included in the ACB of the security (columns B and C of Part 1 of Schedule A).

After March 20, 2013, and for any period that begins after December 31, 2013, do not include on line 64 an amount paid or payable under a life insurance policy that is a leveraged insurance policy (see the definition in Part 6) at the time of payment as such an amount is not considered to be interest.

NOTE
In the case of a personal trust, you must complete Part 3 of Schedule B.

157(d), 160, 161, 163.1

65 and 66 Fees paid to the trustee

The fees that the trust paid to the trustee are deductible if they were paid for the purpose of earning business or property income (most of the fees can be deducted directly from the income in question). This means, for example, that the trust may deduct fees paid to the trustee for the administration or management of shares or securities (where the trustee's principal activity includes the provision of such services), but may not deduct fees paid to the trustee for overseeing personal-use property such as a residence.

Enter:

- on line 65, the **full amount** of the fees paid to the trustee; and
- on line 66, the **portion of this amount** that is not deductible from income or that is deducted elsewhere in the return.

If an individual is acting as a trustee, other than in the normal course of his or her activities, the fees paid to the individual are considered employment income. An RL-1 slip must therefore be filed in the name of the trustee no later than the last day of February of the year following the calendar year in which the payments were made.

NOTE
In the case of a personal trust, you must complete Part 3 of Schedule B if the fees were paid for the purpose of earning investment income.

80, 157(d)

69 Business investment loss

A business investment loss is a capital loss that the trust sustained on the disposition of a **share** of the capital stock of a small business corporation (that is, a CCPC all or substantially all of the FMV of whose assets is attributable to assets used in an eligible business that the corporation carries on primarily in Canada). A business investment loss may also be sustained on the disposition of a **debt obligation** owed by a small business corporation or owed by a CCPC:

- that became bankrupt while carrying on a small business; or
- that, pursuant to section 6 of the *Winding-up and Restructuring Act*, was insolvent within the meaning of this Act at the time a winding-up order was rendered but had been carrying on a small business at that time.

Complete the work chart below.

Total business investment losses for 2022, before the reduction					1	
Taxable capital gains that give entitlement to a deduction and that were designated by the trust for the previous years:						
• 1985, 1986 and 1987		× 2 ▶	2			
• 1988 and 1989 (other than gains deemed to have been realized on incorporeal capital property)		× 3/2 ▶ +	3			
• 1990 through 1999		× 4/3 ▶ +	4			
• 2000		÷ [ ]* ▶ +	5			
• 2001		** × 2 ▶ +	6			
• 2002 through 2021		× 2 ▶ +	7			
• Taxable capital gains deemed to have been realized on incorporeal capital property, designated for 1988 and 1989		× 4/3 ▶ +	8			
Add lines 2 through 8.		=	9			
Total of the reductions in business investment losses for 1986 through 2021		−	10			
Subtract line 10 from line 9.		=	11			
Enter the amount from line 1 or line 11, whichever is **less**, and **carry it to line 216 of Schedule A.** **Reduction of a business investment loss**				−	12	
Subtract line 12 from line 1.				=	13	
				×		**1/2**
Multiply line 13 by 1/2 and **carry the result to line 69 of the return.** **Business investment loss for 2022**				=	14	

* Enter the inclusion rate applicable to the trust for 2000 and divide.

** If the inclusion rate applicable to the trust is not 1/2, do not multiply this amount by 2. Instead, divide it by the applicable rate and enter the result on line 6.

A loss sustained in one of the following situations is considered to be a business investment loss:

- The corporation that operates the business is a small business corporation at the time of the disposition.
- The trust disposed of the share or debt obligation to a person dealing with the trust at arm's length.
- The trust has made an election whereby it is deemed to have disposed of the share or debt obligation at the end of the year, for nil proceeds, and to have reacquired the share or debt obligation immediately thereafter at nil cost. Consequently, the amount of the loss is equal to the amount of the debt obligation or to the ACB of the share immediately prior to the disposition. The trust must enclose with its return a letter advising us that it is electing to have the provisions of section 299 of the *Taxation Act* apply to the share or debt obligation.

For more information, see *Capital Gains and Losses* (IN-120-V).

Business investment losses must be reduced by the amounts the trust allocated to the beneficiaries in a previous year and that the trust designated as taxable capital gains that give entitlement to a deduction. The amount of the reduction (line 12 of the work chart) is considered a capital loss and must be carried to line 216 of Schedule A.

The **allowable** business investment loss is determined on line 14 of the work chart, and can be deducted on line 69 of the return. If the amount of the allowable business investment loss exceeds the trust's income for the year, the excess amount is included in the calculation of the **non-capital loss** (see the instructions for lines 90 and 99).

NOTE

The portion of a non-capital loss that is attributable to the allowable business investment loss can be carried to the three previous taxation years and the ten subsequent taxation years. Any amount that cannot be deducted as a non-capital loss for these years becomes a **net capital loss**.

231, 232.1, 264.5, 299, 300

70 Other deductions in the calculation of net income

Enter the total of the other expenses that were incurred by the trust to earn income and **that have not been included elsewhere in the return**. Do not include expenses pertaining to the property of the trust or the personal expenses of the beneficiaries or trustees (funeral expenses and probate fees, for example, are not deductible from income).

You must also enter on line 70a the code below that corresponds to the deduction entered on line 70:

01 Fees and expenses incurred to prepare, file or continue an objection or an appeal
02 Upkeep and maintenance expenses or taxes for property made available to a beneficiary
03 Canadian exploration or development expenses or foreign resource expenses
04 Designated employee benefits payable by an employee life and health trust
05 Reimbursement of salaries or wages in the case of a GRE
06 Reimbursement of certain government benefits in the case of a GRE
07 Other deductions

If the trust is claiming more than one of these deductions, enter **99**.

01 Fees and expenses incurred to prepare, file or continue an objection or appeal

Enter the amount of the fees and expenses incurred to obtain advice or assistance in connection with an objection to a notice of assessment for income tax, interest or a penalty under the *Taxation Act*, or under a tax law of Canada or of a province other than Québec, or to appeal a decision regarding such a notice. The amount must not exceed a reasonable amount.

336(e)

02 Upkeep and maintenance expenses or taxes for property made available to a beneficiary

Enter the portion of the trust's income that was used to pay, during the year, upkeep and maintenance expenses and taxes for property made available to a beneficiary in accordance with the trust deed, provided the expenses were not already deducted in the trust's financial statements. The amount must not exceed a reasonable amount.

You must report this amount as income allocated to a beneficiary on line 406 of Schedule C (and must therefore also file an RL-16 slip in the beneficiary's name). Also enter this amount on line 74.

Enclose with the return a statement giving full particulars of the amounts paid, and specify the type of expense in each case.

662

03 Canadian exploration or development expenses or foreign resource expenses

Enter the amount of the deductions for the following expenses:

- Canadian exploration or development expenses (including the basic deduction [100%] for Québec exploration expenses that qualify for an additional deduction);
- Canadian oil and gas property expenses;
- foreign resource expenses.

Note that expenses incurred after February 2015 that are related to environmental studies and community consultations, including studies or consultations conducted in order to obtain an exploration permit, are eligible as Canadian exploration expenses.

To determine the amount of these deductions, see the instructions for boxes A, B and D on the back of the RL-11 slip, and the instructions for boxes 28 through 32 and 60 through 62 of the RL-15 slip in the document entitled *Instructions pour les membres de la société de personnes* (RL-15.EX). The deduction for expenses incurred to issue shares and securities related to Québec resources, and renounced in favour of the trust, must be entered on line 94. Any additional deduction for Québec resources must also be entered on line 94.

NOTE

In the case of a personal trust, you must complete Part 3 of Schedule B if the amount on line 70 includes a deduction for Canadian exploration and development expenses that were incurred elsewhere than in Québec. See section 3.5 for more information about trusts subject to a loss restriction event.

371, 395, 401, 413, 414, 418.1.10, 418.7

04 Designated employee benefits payable by an employee life and health trust

In the case of an employee life and health trust, you must enter on line 70 (rather than on line 81) the designated employee benefits that became payable during the year.

657.1(d)

05 Reimbursement of salaries or wages in the case of a GRE

Enter the deduction claimed for any salaries or wages that the legal representative of the deceased individual reimbursed, where the salaries and wages were included in the calculation of the individual's income from an office or employment for a previous year. The reimbursement must be made in accordance with an agreement under which any amount paid to the individual to carry out the duties associated with the individual's office or employment must be repaid for any period during which such duties were not carried out.

You can, however, **elect** to have the reimbursement considered made by the individual in the year of death, rather than by the individual's legal representative. To make the election, send us, separate from any income tax return, form TP-1012.B-V, *Carry-Back of a Deduction or Tax Credit*, duly completed, along with an amended income tax return for the individual for the year of death, no later than 90 days after the end of the taxation year of the GRE.

78.1, 1055.1.2

06 Reimbursement of certain government benefits in the case of a GRE

Enter the deduction claimed for any government benefit that the legal representative of the deceased individual reimbursed, where the amount was included in the calculation of the individual's income for a previous year.

In the case of a QPP, CPP, QPIP or Employment Insurance benefit (see the instructions pertaining to these types of benefits at line 246 in the guide to the personal income tax return), you can **elect** to have the reimbursement considered made by the individual in the year of death, rather than by the individual's legal representative. To make the election, you must send us, separate from any income tax return, form TP-1012.B-V, *Carry-Back of a Deduction or Tax Credit*, duly completed, along with an amended income tax return for the individual for the year of death, no later than 90 days after the end of the taxation year of the GRE.

336(d), 1055.1.3

07 Other deductions

Enter any other amount that is deductible in the calculation of the net income of the trust that was not included on lines 50 through 67 of the return.

74 Upkeep and maintenance expenses or taxes for property used by a beneficiary

Enter, up to a reasonable amount, the portion of the trust's income that was used to pay upkeep and maintenance expenses and taxes for property made available to a beneficiary in accordance with the trust deed. This amount is added to the trust's income to adjust for the fact that it is deducted twice (once in the trust's financial statements or on line 70, and again on line 81).

662

75 Value of other taxable benefits

Enter the total value of the benefits granted by the trust (other than the benefits included on line 74). These may be amounts paid for the beneficiary's personal or living expenses. As such benefits are not deductible, they must be added to trust income in order to counterbalance the deduction claimed on line 81.

Do not include the value of benefits granted to beneficiaries if the value is deducted from the ACB of their capital interests in the trust because, in this case, the value is not included in the amounts allocated to them.

Enclose a statement giving full particulars of the amount that is entered on line 75. This amount is included in the amount on line 406 of Schedule C.

257(n)(i.1), 661

81 Total amounts allocated to beneficiaries

Complete Schedule C if the trust must allocate income or taxable capital gains to beneficiaries. See section 5.3 for instructions on how to complete Schedule C.

The trust can deduct on line 81 an amount that must not exceed the total of the amounts allocated on line 410 of Schedule C.

However, because of the restrictions mentioned in section 5.3.1.2, the deductible amount claimed on line 81 may be less than the amount on line 410 of Schedule C.

NOTE

If a mutual fund trust includes an amount as additional income in the amount on line 61 of its 2021 income tax return, and it allocates a portion of the additional income to a beneficiary, it can claim a deduction equal to the amount allocated on line 81 of its 2022 income tax return.

657, 1121.13

83 Gross-up of dividends not designated

Enter the amount of the gross-up of dividends not designated by the trust. This amount is the total of the amounts shown on line 326 of Schedule B (see the instructions for line 326 in section 5.2).

497

84 Adjustment of investment expenses

If you completed Part 3 of Schedule B, enter the amount from line 350 of the schedule (if it is positive). This amount (and the amount on line 355) constitutes the total adjustment for the non-deductible portion of investment expenses for 2022.

This amount can be carried back three years and carried forward to any subsequent year **only if, in the years concerned, investment income exceeds investment expenses**. To carry back an amount, complete form TP-1012.B-V, *Carry-Back of a Deduction or Tax Credit*, and submit it to us separately from the trust income tax return.

313.10

86 Carry-over of the adjustment of investment expenses

If, for 2022, the trust's investment income (line 346 of Schedule B) **exceeds** its total investment expenses (lines 336 and 339 of Schedule B), you can carry over any portion of the total adjustment of investment expenses for previous years (lines 350 and 355 of Schedule B for these years) that was not carried over in a previous year. The amount you carry over cannot be greater than the difference between the trust's investment income and its total investment expenses.

336.6

90 Net income

If the amount on line 90 is negative, the trust may have sustained a **non-capital loss**. A non-capital loss cannot be allocated to the beneficiaries, but it can be carried back three years and forward twenty years. In the case of an employee life and health trust, the non-capital loss can be carried forward only three years.

We recommend that you complete Schedule D to calculate a non-capital loss.

If you are carrying back a non-capital loss, you **must** complete Schedule D (see the instructions in section 5.4).

727, 728

91 Non-capital losses from other years

Enter the amount of the non-capital losses from other years that are being carried to the year and were not deducted in a previous year. Specify the type of loss by entering one of the following codes on line 91a:

01 Non-capital loss
02 Farm loss
03 Fishing loss
04 Restricted farm loss
05 Limited partnership loss

If the trust is carrying forward more than one loss, enter **99**.

Enclose a statement of changes in loss balances (continuity statement) with the return.

> NOTE
> In the case of a personal trust, you must complete Part 3 of Schedule B if the amount on line 91 includes a limited partnership loss.
> For information regarding a trust subject to a loss restriction event, see section 3.5.

727, 728, 728.0.1

92 Net capital losses from other years

Enter the amount of the net capital losses from other years that are being carried to the current year. Since the amount being carried over must be deducted from **taxable capital gains**, line 92 must not exceed line 53.

If a net capital loss was sustained in a year in which the capital gain inclusion rate was not 50%, the amount of the net capital loss must be adjusted. To make the adjustment complete form TP-729-V, *Carry-Forward of Net Capital Losses*. Carry the result obtained to line 92 of the return.

Enclose with the return either form TP-729-V or a statement of changes in loss balances (a continuity statement).

> NOTE
> In the case of a personal trust, you must complete Part 3 of Schedule B if any portion of the amount on line 92 is deducted from taxable capital gains realized on property other than qualified farm or fishing property or qualified small business corporation shares.
> For information regarding a trust subject to a loss restriction event, see section 3.5.

Net capital loss on precious property

A net capital loss on precious property can be used only to reduce a capital gain realized on other precious property. If you enter a capital gain on line 206 of Schedule A, you may deduct on line 207 a net capital loss sustained in any of the seven previous years. Always use losses in the order in which they were sustained, from earliest to latest.

266, 267, 729, 729.1

93a Adjustment for the purpose of calculating the CNIL

If a deduction corresponding to code 03 is included on line 70 and the deduction includes Québec resource expenses that do not qualify for an additional deduction, enter, for information purposes, an amount that corresponds to **50%** of the total of the amounts in boxes A-1, A-2 and B-1 of the RL-11 slips **and** in boxes 28-1, 28-2, 29-1, 60-1, 60-2 and 61-1 of the RL-15 slips.

This amount is used to calculate the CNIL. It must be included on line 50 of form TP-668.1-V, *Taxable Capital Gains of a Trust That Give Entitlement to a Deduction*, and also added to the amount on line 336 of Schedule B.

94 Other deductions in the calculation of taxable income

Enter on line 94 all other deductions that the trust may claim in calculating its taxable income. You must specify the type of deduction claimed by entering one of the following codes on line 94a:

01 $2,000 deduction, if the trust is created with respect to a non-profit organization's property (see "Non-profit organization" in section 1.7.)
997(f)

02 Deduction for foreign income that is exempt from federal or Québec income tax under a tax agreement
725(a)

03 Deduction for share and security issue expenses that relate to Québec resources and that were renounced in favour of the trust
726.4.17.10

04 Additional deductions for Québec resources (the deductions for exploration and development expenses must be entered on line 70)
726.4.9, 726.4.17.1

05 Income-averaging deduction for a trust that is a certified forest producer
726.42

06 Deduction other than a deduction under one of codes 01 through 05

If the trust is claiming more than one deduction, enter code 99.

98 Other adjustment of investment expenses

If you completed Part 3 of Schedule B, enter the amount obtained on line 355 of the schedule (if it is positive). The amount on line 98 (plus the amount on line 84, if applicable) constitutes the total adjustment for the non-deductible portion of investment expenses.

This adjustment can be carried back three years and carried forward to any subsequent year only if, in the years in question, investment income exceeds investment expenses. To carry back an amount, complete form TP-1012.B-V, *Carry-Back of a Deduction or Tax Credit*, and submit it to us separately from the trust income tax return.
737.0.1

98.1 Adjustment of deductions (all or part of the deduction claimed for a trust that is a certified forest producer)

If, after **March 17, 2016**, a trust that is a certified forest producer claimed the deduction of a portion of its income derived from non-retail sales of timber produced in a private forest, you must include all or part of the amount deducted in the calculation of the trust's taxable income.

If a sale of timber subject to the income-averaging mechanism was concluded before March 10, 2020, all or part of the amount deducted respecting the sale for a year must be included in the calculation of the trust's taxable income for one or more of the seven following years. For each of the six taxation years following the year for which the deduction was claimed, the trust must include in the calculation of its taxable income at least 10% of the amount deducted, up to the amount by which the amount deducted exceeds the aggregate of the amounts already included. In the seventh year following the year for which the deduction was claimed, the trust must include the portion of the amount that has yet to be included.

If a sale of timber subject to the income-averaging mechanism was concluded after March 9, 2020, all or part of the amount deducted respecting the sale for a year must be included in the calculation of the trust's taxable income for one or more of the ten following years. For each of the ten taxation years following the year for which the deduction was claimed, the trust must include in the calculation of its taxable income at least 10% of the amount deducted, up to the amount by which the amount deducted exceeds the aggregate of the amounts already included.

For more information, see the instructions for lines 55a and 55.

726.42-726.44

99 Taxable income

The result obtained on line 99 (if it is positive) is the trust's taxable income. You cannot enter a negative amount on line 99.

Negative amount on line 97

If line 97 is negative and line 99 would be negative if a negative amount could be entered, the trust may have sustained a non-capital loss. Such a loss cannot be allocated to the beneficiaries, but it can be carried back three years and forward twenty years.

We recommend that you complete Schedule D to calculate the non-capital loss. To carry back the loss, you **must** complete Schedule D (see the instructions in section 5.4).

727, 728

4.3 Income tax payable

101 to 103 Graduated rate estate or qualified disability trust

Only GREs and QDTs are subject to the same tax rates as individuals. Lines 101 through 103 must be completed to determine the income tax payable on the taxable income of these two types of trusts.

750

105 and 107 Trust other than a mutual fund trust, a qualified disability trust or a graduated rate estate

You must complete lines 105 and 107 to determine the income tax payable on the taxable income of a trust other than a mutual fund trust, a QDT or a GRE.

NOTE
In the case of a **SIFT trust**, income tax is calculated as if the taxable income were equal to the amount by which the amount on line 99 exceeds the amount on line 175 of Schedule E.

768, 770.0.1, 905.0.10-905.0.12, 920-921.2, 935.22-935.23, 961.14-961.16.1

110 to 115 Mutual fund trust

To determine the income tax on the taxable income of a mutual fund trust, complete lines 110 through 115.

NOTE
In the case of a **SIFT trust**, income tax is calculated as if the taxable income were equal to the amount by which the amount on line 99 exceeds the amount on line 175 of Schedule E.

770, 770.0.1, 1129.71 (1st par.)

120 Income tax on taxable income

You must complete form TP-750-V, *Income Tax Payable by a Trust Resident in Québec That Carries On a Business in Canada, Outside Québec, or by a Trust Resident in Canada, Outside Québec, That Carries On a Business in Québec*, in the following cases:

- The trust was resident in Québec on the last day of the taxation year and it carried on a business in Canada, outside Québec, during the year.
- The trust was resident in Canada, outside Québec, on the last day of the taxation year and it carried on a business in Québec during the year.

For **dividends received or deemed received after December 31, 2019**, a trust resident in Québec on the last day of the taxation year can claim the dividend tax credit for the year. Moreover, such a trust may deduct the total amount of the dividend tax credit to which it is entitled for the year from its income tax payable without taking into account the proportion used to determine its income tax payable for the year.

22, 25; 22R1, 22R18, 1088R16

121 Income tax adjustment

The portion accrued to December 31, 1971, of a single payment received by the trust under a pension plan or a DPSP may be taxed at a reduced rate. If this income is not allocated to the beneficiaries, and the trust elects to be taxed at a reduced rate, contact us to determine the income tax payable.

123 Tax credit for donations and gifts

The tax credit for donations and gifts must be calculated on the basis of the **eligible amount of the gift or donation made by the trust** shown on the official receipt.

Gifts made under a will

A gift made by will or by designation is deemed to be made by the succession at the time the property (or property substituted for the property) is transferred to the donee.

If a GRE (or a succession that ceased to be a GRE solely because it existed for more than 36 months after the death) makes a gift (or is deemed to have made a gift) within 60 months following the death, the gift can be:

- allocated to the deceased and included in his or her income tax return for the year of the death or the previous year;
- included in the income tax return of the GRE for the year of the transfer or a previous year; or
- included in the income tax return of a succession that was a graduated rate estate in the year of the transfer.

These rules apply if the deceased left the proceeds of an RRSP, a RRIF or a TFSA to a qualified donee under a will. They also apply if the deceased designated a qualified donee as the beneficiary of the proceeds of an insurance policy in Canada.

The tax credit for donations and gifts can be claimed in the deceased's income tax return for the year of death or in an income tax return for a preceding year, even if the gifted property has not yet been transferred to the qualified donee. In this situation, you will have to provide a copy of all of the following documents:

- the will;
- a letter from the succession to the charitable organization informing it of the gift and providing details and an estimated value of the property being gifted;
- a letter from the charitable organization acknowledging the gift and stating that it accepts it;
- a statement or letter from the succession's legal representative stating all of the following:
  - the succession is a GRE of the deceased individual and will be designating itself as such,
  - the succession intends to make the gift within 60 months after the date of death,
  - the succession intends to claim the tax credit for donations and gifts in the deceased individual's income tax return and not in the succession's return,
  - for future non-cash gifts, the value of the gift can be reasonably determined and supported.

232, 752.0.10.10.0.1

Cultural patronage or large cultural donation made upon a death

It is presumed that a gift made by will or by designation is deemed to be made by the succession of the deceased individual at the time the property is transferred to a qualified donee. This presumption also applies to a donation that gives entitlement to the additional tax credit for a large cultural donation or the tax credit for cultural patronage. However, a succession cannot claim a tax credit for such donations.

A cultural patronage or large cultural donation made by a GRE within 36 months following the death can be used to reduce the income tax payable by the deceased individual for the year of the death or the previous year. The same goes for cultural patronage made within 60 months following the death by a succession that is no longer a GRE solely because it has existed for more than 36 months after the death.

If a gift is made in more than one payment, the value of the gift must be reported on line 406 of Schedule C and deducted on line 81 of the return, like any other allocation of income to beneficiaries. The amount on line 406 must also be reported on an RL-16 slip.

If the will allows a gift to be made at the trustee's discretion, the trustee can either proceed as explained in the previous paragraph (as though the gift is being made in more than one payment), or claim a tax credit on line 123.

In all cases, you must specify in the return whether the payment was made according to instructions in the will or at the discretion of the trustee.

Gifts made by an inter vivos trust

Where the trust is an inter vivos trust and the donee is a beneficiary of the income under the trust deed, the value of the gift must be reported on line 406 of Schedule C and deducted on line 81 of the return as an allocation of income to the beneficiaries of the trust. In all other cases, a tax credit can be claimed on line 123.

As of 2017, the total amount of the tax credit for donations and gifts that a trust **other** than a GRE or a QDT can claim for a taxation year is equal to:

- 20% of either $200 or the trust's total eligible donations and gifts for the year (whichever is **less**); and
- 25.75% of the amount by which the trust's total eligible donations and gifts for the year exceeds $200.

The total amount of the tax credit for donations and gifts that a GRE or a QDT can claim for a taxation year is equal to the total of the following amounts:

- 20% of either $200 or the trust's total eligible donations and gifts for the year (whichever is **less**);
- 25.75% of the **lesser** of the following amounts:
  - the amount by which the trust's total eligible donations and gifts for the year exceeds $200,
  - the amount by which the trust's total income for the year (line 99 of the return) exceeds the threshold of the fourth income tax bracket for the year;
- 24% of the amount by which the trust's total eligible donations and gifts for the year exceeds the aggregate of $200 and the amount of donations and gifts to which the rate of 25.75% applies.

752.0.10.6

Gifts made by a religious organization

Under federal legislation, a trust that is a religious organization can **elect** to waive its right to the tax credit in favour of the adult members of the organization, provided it designates its charitable donations and other gifts. Consequently, designated amounts will be considered gifts made by the members, not by the trust. For the purposes of Québec legislation, no such election can be made unless it is made under federal legislation, in which case it is automatically deemed to be made. Therefore, if the trust makes this election with the CRA, you must send us proof that the election was made and written notification no later than the filing deadline for the trust income tax return or 30 days after the election was made (whichever is later). See section 3.2.16 of the *Guide to Filing the RL-16 Slip: Trust Income* (RL-16.G).

851.33

Food donations made by a trust that carries on a farming business

The eligible amount for food donations made after March 26, 2015, can be increased by 50% for purposes of calculating the tax credit for donations and gifts if the following conditions are met:

- The donations are made by a trust that carries on a farming business that is considered to be a **recognized farm producer**.
- The donations are donations of **eligible agricultural products**.
- The donations are made to a registered charity that is either the Food Banks of Québec or a Moisson member.

The eligible amount for such food donations made after March 17, 2016, to an associate member of the Food Banks of Québec can also be increased by 50% if the above conditions are met.

The term "recognized farm producer" means an individual or a corporation that carries on a farming business registered as an agricultural operation with the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation, in accordance with the regulation adopted under section 36.15 of the *Act respecting the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation*. The term also means a member of a partnership carrying on such a business at the end of the partnership's fiscal period.

The term "eligible agricultural product" means any product grown, raised or harvested by a registered agricultural operation, provided the product can be legally sold, distributed or offered for sale—at a place other than where it was produced—as a food or beverage intended for human consumption. Examples of eligible agricultural products are meat and meat by-products, eggs and dairy products, fish, fruit, vegetables, grain, legumes, herbs, honey, maple syrup, mushrooms and nuts.

716.0.1.4, 752.0.10.15.6

Food donations made by a trust that carries on a food processing business

The eligible amount for food donations made after March 17, 2016, can be increased by 50% for purposes of calculating the tax credit for donations and gifts if the following conditions are met:

- The donations are made by a trust that carries on a food processing business.
- The donations are donations of eligible food products.
- The donations are made to a registered charity that is either the Food Banks of Québec, a Moisson member, or an associate member.

Eligible food products are milk, oil, flour, sugar, frozen vegetables, pasta, prepared meals, baby food and infant formula.

752.0.10.1, 752.0.10.15.6

Charitable donations

Charitable donations are donations made to qualified donees that are not gifts of cultural property, ecological gifts or gifts of musical instruments (see the instructions under "Other gifts" on page 86)

The term "qualified donee" includes:

- a registered charity;
- a registered Canadian or Québec amateur athletic association;
- a corporation constituted exclusively for the purpose of providing low-cost housing accommodation for senior citizens;
- a registered cultural or communications organization;
- a Canadian municipality;
- the United Nations or one of its agencies;
- a prescribed foreign university;
- the Government of Canada or a provincial government;
- the Organisation internationale de la Francophonie or one of its subsidiaries;
- a registered museum;
- a municipality or other public body performing a function of government in Canada;
- a recognized political education organization; and
- a recognized journalism organization.

Limit regarding the charitable donation of a work of art

If, during the taxation year, the trust donated a work of art, the value of the donation can be deducted as income allocated to the beneficiaries of the trust (line 81) or may qualify for a tax credit for donations and gifts (line 123), provided the donee sells the work of art on or before December 31 of the fifth year following the calendar year in which the donation was made. If the trust cannot take the donation into account at the time the return is filed because a receipt has not yet been issued, it can request an adjustment from us after obtaining the receipt using form TP-646.R-V, *Request for an Adjustment to a Trust Income Tax Return*.

The five-year time limit does not apply if the work of art was donated:

- to a Canadian municipality, the government of Canada or a provincial government or an organization that acquired the work as part of its primary mission;
- to a charity that is a recognized institution or establishment for the purpose of the 50% increase in the eligible amount of the donation, if the work of art is a **public work of art** (see below).

Increase in the eligible amount of a donation of a work of art

The eligible amount of a donation of a work of art can be **increased by 25%** if the work of art is donated to a Québec museum (museum in Québec or a registered museum).

However, if a trust makes a charitable donation to certain donees and the donated property is a **public work of art**, the eligible amount of the donation can be increased by 25% or 50%, as applicable. The trust must enclose with its return a certificate, issued by the Ministère de la Culture et des Communications, confirming the FMV of the public work of art.

The term "public work of art" means a permanent work of art, often large in size or of an environmental nature, installed in a space accessible to the public for the purposes of commemoration, embellishment or integration into the architecture or environment of public buildings and sites.

Thus, unless the 25% increase has already been applied because the work of art is a public work of art that was donated to a Québec museum, the eligible amount of the gift can be **increased by 25%** if the donee was:

- the Québec government (if the donee was an educational institution that is a mandatary of the State, see the following paragraph);
- a Québec municipality or a municipal or public body performing a function of government in Québec (other than a school service centre governed by the *Education Act*) and, according to the certificate issued by the Ministère de la Culture et des Communications, the work was acquired by the municipality or body in accordance with its acquisition and conservation policy for public works of art.

The eligible amount of a donation of a public work of art can be **increased by 50%** if the donee was:

- an educational institution that is a mandatary of the State;
- a school service centre governed by the *Education Act* or by the *Education Act for Cree, Inuit and Naskapi Native Persons*;
- a registered charity whose mission is education and that is:
  - an educational institution established under a Québec statute, other than an educational institution that is a mandatary of the State,
  - a general and vocational college (CEGEP),
  - a university-level institution referred to in one of paragraphs 1 to 11 of section 1 of the *Act respecting educational institutions at the university level*, or
  - an accredited private educational institution for the purposes of the grant under the *Act respecting private education*.

In this case, the certificate issued by the Ministère de la Culture et des Communications must also confirm that the work of art acquired by the donee will be installed in a place that is accessible to the students and that its conservation can be assured.

Increase in the eligible amount of a gift of an immovable intended for cultural purposes

If a trust makes a gift of a building located in Québec capable of housing artists' studios or one or more cultural organizations, the eligible amount of the gift can be **increased by 25%**. The trust must enclose with its return the following documents issued by the Ministère de la Culture et des Communications: an eligibility certificate for the building and a certificate confirming the FMV of the building (including the value of the land on which the building is located). The gift must have been made to one of the following donees:

- a Québec municipality or a municipal or public body performing a function of government in Québec;
- a registered charity operating in Québec for the benefit of the community, such as the Société d'habitation et de développement de Montréal, or operating in the area of arts or culture;
- a registered cultural or communications organization;
- a registered museum.

Amount of charitable donations and carry-over of the unused portion

The total eligible amount of charitable donations gives entitlement to the tax credit. The charitable donations to be taken into account are those made by the trust during the taxation year concerned and the previous five taxation years, provided the trust has not already claimed a tax credit in the income tax return for the year or a previous year or, if the trust is a succession, in the income tax return of the deceased for the year of death or the previous year.

The trust may choose to claim only a portion of its total donations (to the maximum amount allowed). The unused portion can be carried forward five years.

Other gifts

The table below shows the other gifts for which the trust can claim a tax credit.

TABLE 1 Characteristics of other gifts and documents to provide

<table>
<tr><th>Type of gift</th><th>Donee</th><th>Documents to enclose with the trust return</th></tr>
<tr><td rowspan="3">Gift of cultural property (if the gift is a work of art or an immovable to be used for cultural purposes, see "Increase in the eligible amount of a gift of cultural property" below)</td><td>An institution or public authority located in Canada and designated by the Minister of Canadian Heritage</td><td>• Official receipt
• Cultural Property Income Tax Certificate (T871), issued by the Canadian Cultural Property Export Review Board, or notice issued by the Conseil du patrimoine culturel du Québec</td></tr>
<tr><td>One of the four major Québec museums:
• Musée national des beaux-arts du Québec
• Musée d'art contemporain de Montréal
• Musée de la civilisation
• Montreal Museum of Fine Arts</td><td rowspan="2">• Official receipt
• Certificate of Disposition of Cultural Property (TPF-712.0.1-V), issued by the Conseil du patrimoine culturel du Québec</td></tr>
<tr><td>A certified archival centre or a registered museum (in these two cases, the gift is referred to as a "gift of property with heritage value")</td></tr>
<tr><td>Ecological gift
• Land in Québec or a real servitude (or, since March 22, 2017, a personal servitude of not less than 100 years) encumbering such land that, in the opinion of the Minister of the Environment and the Fight against Climate Change, has an undeniable ecological value</td><td>• Government of Canada or Québec government
• Québec municipality or a municipal or public body performing a function of government in Québec that is authorized by the Minister of the Environment and the Fight against Climate Change with respect to the gift
• Registered charity (excluding a private foundation) whose primary mission, at the time the gift was made, consisted in the preservation of Québec's ecological heritage</td><td>• Certificate for a Gift of Land or a Servitude with Ecological Value (TPF-712.0.2-V), issued by the Ministère de l'Environnement et de la Lutte contre les changements climatiques
• Certificate issued by the Ministère de l'Environnement et de la Lutte contre les changements climatiques confirming the FMV of the gift</td></tr>
</table>

Type of gift	Donee	Documents to enclose with the trust return
• Land that is situated outside Québec in a province, territory, or U.S. state that borders Québec (or since March 22, 2017, a personal servitude of not less than 100 years encumbering such land) that in the opinion of the Minister of the Environment and the Fight against Climate Change, has an undeniable ecological value, the preservation and conservation of which are important for Québec's ecological heritage	• Government of Canada, Québec government or a government of another province • Municipality that is situated in the United States or a municipal or public body performing a function of government in the United States that is authorized by the Minister of the Environment and the Fight against Climate Change with respect to the gift • Municipality or other public body performing a function of government in Québec that is authorized by the Minister of the Environment and the Fight against Climate Change with respect to the gift • Registered charity (excluding a private foundation) one of whose primary missions, in the opinion of the Minister of the Environment of Canada, is the conservation and protection of Canada's environmental heritage, and that is authorized by the Minister of the Environment and the Fight against Climate Change with respect to the gift	• *Certificate for a Gift of Land or a Servitude with Ecological Value* (TPF-712.0.2-V), issued by the Ministère de l'Environnement et de la Lutte contre les changements climatiques • Notice of approval of the Minister of Environment of Canada, if the gift was made to a registered charity • Certificate issued by the Ministère de l'Environnement et de la Lutte contre les changements climatiques confirming the FMV of the gift
Gift of a musical instrument	Recognized educational institution	Official receipt

Increase in the eligible amount of a gift of cultural property

If the trust makes a gift of cultural property that is a **work of art** or an **immovable to be used for cultural purposes**, the eligible amount of the gift can be increased by 25%, as is the case with charitable donations. Eligible donees and the documents to enclose with the return are listed in the table above.

Gift of property with undeniable ecological value

Since March 22, 2017, the following rules have applied to gifts of property with undeniable ecological value:

- The municipalities and municipal or public bodies performing a function of government that receive such a gift must prove to the Ministère de l'Environnement et de la Lutte contre les changements climatiques that the gifts received will be protected in the long-term.
- Private foundations are no longer authorized to receive gifts of property with undeniable ecological value.
- Certain gifts of personal servitudes are considered gifts of property with undeniable ecological value, provided they meet certain conditions (for example, the personal servitude must have a term of not less than 100 years).

Carry-over of the unused portion

The total eligible amount of other gifts gives entitlement to the tax credit for donations and gifts. This total can include gifts made by the trust during the taxation year and gifts made in the previous five years, provided the trust has not already claimed a tax credit for those gifts.

The trust can choose to claim only a portion of its total gifts. **The unused portion can be carried forward five years (ten years in the case of an ecological gift made after February 10, 2014)**. See the carry-over rules for donations, which also apply to gifts of ecological property made by a GRE.

657, 657.1, 752.0.10.1, 752.0.10.2, 752.0.10.6, 752.0.10.11.1, 752.0.10.11.2, 752.0.10.15, 752.0.10.15.1, 851.33, 999.2

124 Foreign tax credit

If the trust was resident in Québec on the last day of the taxation year, it may be entitled to a tax credit for the foreign income tax paid on its foreign income.

The credit is based on the income tax that the trust paid on foreign income or earnings to any level of government of a foreign country. You cannot claim the foreign tax credit for an amount of income tax that the trust could have avoided or recovered from the foreign government.

The calculation of the foreign tax credit must be based only on the amounts retained by the trust. Do not take into account foreign income allocated to the beneficiaries or foreign income tax paid on such income.

Complete form TP-772-V, *Foreign Tax Credit*, to calculate the tax credit. The **income tax paid on business income** and **non-business income** must be calculated separately. The tax credit granted for non-business income is limited to the amount by which the total of the foreign income tax paid **exceeds** the foreign tax credit granted by the CRA for such income. You must complete a separate form for each foreign country.

Deemed resident trust

All foreign income of a deemed resident trust is deemed to be from the foreign country in which the trust was resident at the end of the taxation year or immediately before the trust ceased to exist (if it ceased to exist in the year). All foreign income tax paid by such a trust for the year is deemed to have been paid to the government of the foreign country.

Contact us for more information.

772.6, 772.8

125 Dividend tax credit

The trust can claim a dividend tax credit for ordinary dividends and eligible dividends that it kept. Enter on line 125 the total of the amounts from line 328 of Schedule B. For more information, see the instructions for line 328.

128 Tax credit claimed by the trust as a designated beneficiary of a designated trust

The trust may be required to complete the *Information Return to Be Completed by the Beneficiary of a Designated Trust* (form TP-671.9-V), as a beneficiary of such a trust. If it is also a **designated beneficiary** of the trust, it may be entitled to a tax credit (line 25 of form TP-671.9-V).

772.15

130 Additional income tax resulting from the AMT

Complete form TP-776.42.F-V, *Alternative Minimum Tax of a Trust*, if the provisions respecting this tax apply to the trust.

A trust may be required to pay the AMT if it includes any of the following in its return:

- taxable dividends;
- taxable capital gains;
- a loss created or increased by resource deductions (other than the additional deductions for Québec resources) or by the depletion allowance for resource property;
- its share of a loss sustained by a partnership, where its interest in the partnership is a tax shelter;
- a loss created or increased by a capital cost allowance deduction or any deduction for carrying charges and interest expenses, for the rental of property (including certain films);

- a loss or a deduction pertaining to a tax shelter;
- carrying charges deducted with respect to the purchase of an interest in a partnership of which the trust is a specified member;
- carrying charges deducted with respect to the purchase of an interest in a partnership that owns a film or rental property, where the carrying charges create or increase a loss attributable to such sources.

Exceptions

A trust is not subject to the AMT for a taxation year if, throughout that taxation year, it is a **mutual fund trust**, an **insurance segregated fund trust**, a **master trust** (a trust of which each beneficiary is a trust governed by an RPP, a PRPP, a VRSP or a DPSP) or an employee life and health trust.

A **spousal trust created after 1971**, a **joint spousal trust** or an **alter-ego trust** are also not subject to alternative minimum tax for the year in which the person concerned (the beneficiary spouse, surviving spouse or deceased individual, as applicable) dies.

As of 2016, only a GRE can take advantage of the basic $40,000 exemption in calculating the AMT. This means that other testamentary trusts no longer benefit from this exemption.

776.42-776.46, 776.50-776.65

132 Additional income tax resulting from the AMT carried forward to 2022

The trust may be entitled to deduct all or part of the AMT relating to a previous year. To determine the amount to enter on line 132, complete form TP-776.42.F-V, *Alternative Minimum Tax of a Trust*.

752.12, 752.14

134 Deduction for logging tax

If the trust engaged in logging operations in Québec, it may be entitled to deduct one-third of the amount of tax it paid when it filed form TPZ-1179-V, *Logging Operations Return*. Contact us for more information about this deduction.

1183

136 Special tax respecting certain refundable tax credits, an RESP or an income-averaging annuity for artists

Enter the amount of special tax payable by the trust.

Special tax respecting certain tax credits

During the taxation year, an amount may have been refunded or credited to the trust in order to offset an expense for which the trust obtained a tax credit in a previous taxation year. In this case, the trust must pay a special tax.

This rule applies to certain tax credits (for example, the tax credit for the reporting of tips, the tax credits for R&D and the tax credit for an on-the-job training period).

Contact us for information on how to calculate the special tax.

1129.40, 1129.41.3

Special tax respecting an RESP

After the death of a person who was an RESP subscriber, the trust may have received an accumulated income payment under the plan, and be required to pay additional income tax. Complete form TP-1129.64-V, *Special Tax Relating to a Registered Education Savings Plan*, and file it with the trust income tax return on or before the filing deadline for the return.

890.15, 904.1, 1129.64

Special tax respecting an income-averaging annuity for artists

If the trust is a testamentary trust that has not allocated the entire payment of an income-averaging annuity for artists to its beneficiaries, it must pay a special tax equal to the portion of the income tax withheld on the payment that is not allocated to the beneficiaries.

1129.68

137 Income tax on the taxable distributions amount

In the case of a **SIFT trust**, enter the amount from line 180 of Schedule E.

If the trust has an establishment in Québec and an establishment elsewhere, you must use the business allocation formula used by corporations to calculate the income tax. Contact us for more information.

1129.71

138 Income tax payable on specified immovables

In the case of a **specified trust**, enter the amount from line 671 of Schedule F.

4.4 Refund claimed or balance due

150.1 Recovery tax

Enter the amount of recovery tax (amount from line 811 of form TP-768.1-V, *Recovery Tax: Qualified Disability Trust*) that the graduated rate QDT must pay if it ceased to be a QDT during the year for one of the reasons mentioned in section 1.7 under "Qualified disability trust."

You must take into account the recovery tax amount in the calculation of instalment payments, where applicable.

151 Income tax paid in instalments

Enter the total amount of instalment payments made by the trust before filing the return.

152 Québec income tax withheld at source

Enter the amount of Québec income tax withheld at source from the trust's income. If you do not have information slips showing the amount of income tax withheld, enclose with the return a statement substantiating the income reported and the income tax withheld.

If the trust was resident in Québec at the end of its taxation year and income tax was withheld by another province or a territory of Canada, you can enter on line 152 a portion of the income tax withheld, provided you requested a transfer in the trust's federal T3 return (line "Transfer to Québec" on page 4 of the return).

Income tax withheld at source cannot be allocated to the beneficiaries. However, in the case of a testamentary trust, if you allocate an amount related to the payment of an income-averaging annuity for artists to a beneficiary, you must also:

- allocate the corresponding portion of the income tax withheld (amount to be entered after "G-10" in one of the blank boxes of the RL-16 slip of the beneficiary concerned); and
- enter on line 152 the income tax withheld that exceeds the portion of the income tax allocated to the beneficiary.

669.5, 1004, 1020-1026.0.1

153 Tax credits for scientific research and experimental development (R&D)

A trust that carried out R&D in the course of a business that it carried on in Canada, or had R&D carried out on its behalf, can claim a tax credit. Enclose with the return the applicable form from the list below, duly completed:

- form RD-1029.7-V, *Tax Credit for Salaries and Wages (R&D)*
- form RD-1029.8.6-V, *Tax Credit for University Research or Research Carried Out by a Public Research Centre or a Research Consortium*
- form RD-1029.8.9.03-V, *Tax Credit for Fees and Dues Paid to a Research Consortium*
- form RD-1029.8.16.1-V, *Tax Credit for Private Partnership Pre-Competitive Research*

NOTE

If the trust is a member of a partnership that is required to file the *Partnership Information Return* (form TP-600-V), the information required to calculate the tax credit for salaries and wages (R&D) is shown on the RL-15 slip. Enter this information on the appropriate lines of form RD-1029.7-V.

1029.7 ff.

154 Tax credit for an on-the-job training period

A trust may be entitled to a tax credit for an on-the-job training period if, in carrying on a business in Québec, it (or a partnership of which it is a member) paid a salary or wages to a trainee or apprentice, or to a trainee supervisor.

To apply for the credit, complete form TP-1029.8.33.6-V, *Tax Credit for an On-the-Job Training Period*, and enclose it with the return.

1029.8.33.2, 1029.8.33.6, 1029.8.33.7

156 Other credits and other adjustments to income tax payable

Enter on line 156 any tax credit other than those on the preceding lines and any other adjustment to the income tax payable. You must specify which tax credit or adjustment is being claimed by entering one of the following codes on line 156a:

- **01** Tax credit for the unallocated portion of the income tax withheld on the payment of an income-averaging annuity for artists in the case of a testamentary trust that is resident in Québec at the end of the taxation year
- **02** Property tax refund for forest producers, for the development of woodlots belonging to the trust (for more information, contact us)
- **03** Tax credit for the reporting of tips, which is applicable to Québec businesses in the restaurant and hotel sector (to claim this credit, you must complete form TP-1029.8.33.13-V, *Tax Credit for the Reporting of Tips*, and enclose it with the return)
- **04** Refundable tax credit for the income tax paid by an environmental trust
- **05** Overpayment of QPP contributions by the deceased person, if the trust is a succession
- **06** Overpayment of CPP contributions by the deceased person, if the trust is a succession
- **07** Overpayment of QPIP premiums by the deceased person, if the trust is a succession
- **08** Other tax credits and other amounts deductible from income tax payable

776.1.6, 1029.8.33.13, 1029.8.33.14, 1029.8.36.52, 1029.8.36.53, 1029.8.50.2

If the trust is claiming more than one tax credit or adjustment, enter **99**.

160 Balance due

The trust must pay the balance due within the filing period, that is, **within 90 days after the end of the taxation year**. A balance due after that time bears interest at the prescribed rate.

If the trust has a balance due, you can pay it:

- by mailing us a cheque or money order;
- at the trust's financial institution;
- using form TPZ-1026.0.1.F-V, *Payment of Balance – Trusts*, which you can order by telephone or online.

If you use form TPZ-1026.0.1.F-V and this is not the trust's first income tax return, you must enter the 10-digit identification number shown on a notice of assessment the trust previously received. Your payment will be processed faster if you enter the correct identification number as well as the trust's name and address.

TAA28

165 Information about the person who completed the return

If the person who completed the return is not the trustee, the liquidator of the succession, or the trustee's or liquidator's representative, or if the administrator of the trust or contact person completed the return and their address is not the same as the trustee's address, provide the requested information about the person who completed the return or the corporation they represent.

4.5 Certification

The trustee, the liquidator of the succession or the representative of the trustee or liquidator must print his or her last name, first name and position or title, specify the date on which the return was completed, and sign the return.

The representative of the trustee or of the liquidator of the succession must enclose form MR-69-V, *Authorization to Communicate Information or Power of Attorney*, with the return, unless this form was previously filed and remains valid for the taxation year in question.

4.6 Additional information about the trust

You must complete the "Additional Information About the Trust" section for any trust resident in Canada other than a trust created by law or by a judgment. The information requirements are mandatory for certain trusts for taxation years ending **after December 30, 2023**. Note that, if the trust is resident in Québec at the end of its taxation year and it holds a specified immovable, or if it is a member of a partnership that holds such an immovable, you must complete Schedule G.

You must enter the additional information requested for each person who, during the year is:

- a trustee;
- a beneficiary;
- a settlor;
- a person who can exert control over the trustee's decisions with respect to the allocation of income or capital from the trust under the terms of a mandate or other agreement, or otherwise.

5 INSTRUCTIONS FOR COMPLETING THE SCHEDULES

5.1 Schedule A – *Taxable Capital Gains and Designated Net Taxable Capital Gains*

You must complete Schedule A if the trust disposed of or is deemed to have disposed of **capital property** during the taxation year.

In certain sections of the guide, we use the term "sale" to designate a transaction by which, as a rule, the trust transfers its property with or without consideration (see the definition of the term "disposition" in Part 6). A "deemed sale" occurs if, for example, a debt obligation has become a bad debt, there has been a change in the use of property, certain events happen to certain trusts (see section 5.1.5) or property has been stolen or destroyed.

We use the term "property" to refer to capital property.

The trust may realize a capital gain or sustain a capital loss on the sale of property, including virtual currency.

To find out what special rules apply to a loss on the disposition of property involving an affiliated person, see section 3.3.

For more information on capital gains, refer to guide IN-120-V, *Capital Gains and Losses*.

This section contains information about the tax treatment of the trust where:

- the trust is a personal trust that distributes property to one of its beneficiaries (section 5.1.1);
- the trust is no longer resident in Canada or becomes resident in Canada (section 5.1.2);
- the trust is a GRE that is filing an income tax return for its first taxation year, and:
  - it makes an election referred to in section 1054 of the *Taxation Act* with respect to a capital loss or terminal loss it sustained on the sale of a property (section 5.1.3), or
  - it makes an election under section 1055.1 of the *Taxation Act* with respect to the decrease in the value of an option granted to a deceased person at the time it was exercised or sold (section 5.1.4);
- the trust must report a deemed sale (section 5.1.5);
- the trust is a SIFT trust that is converted into a business corporation (section 5.1.6).

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5.1.1 Distribution of property by a personal trust

A personal trust that **is not** covered by points 1 through 11 of section 5.1.5 (see "Exceptions to deemed sales") is deemed not to be dealing with its beneficiaries at arm's length. A person not dealing at arm's length with one of the trust's beneficiaries is also considered not to be dealing at arm's length with the trust. Therefore, if the trust transfers property to one of these persons for no consideration or for a consideration that is less than the FMV of the property at the time of transfer, the property is considered to have been transferred at its FMV.

If the trust transfers property to a beneficiary in settlement of all or a part of the beneficiary's **income interest** in the trust, the property is considered to have been transferred at its FMV at the time of transfer.

However, if the trust transfers property to a beneficiary in settlement of all or a part of the beneficiary's **capital interest** in the trust, the transfer has no tax consequences for the trust. In this case, the rollover rule applies with the following presumptions:

- The trust is deemed to have transferred the property for a selling price equal to its cost amount (see the definition in Part 6).
- The beneficiary is deemed to have acquired the property at a price equal to its cost amount.

Exceptions to the rollover rule are given below (see "Transfer of property at its FMV").

A detailed statement of all property transferred to the beneficiaries during the taxation year concerned (including the date of transfer and the names of the beneficiaries) must be enclosed with the return. You must also check the box on line 21 of the return.

1, 685, 688

Transfer of property at its FMV

Notwithstanding the rollover rule applicable to the transfer of property by a personal trust in settlement of a capital interest, the property is deemed to have been transferred at its FMV in the following situations:

1. The trust makes an election to that effect under federal legislation for the year of the transfer. However, if the trust was not resident in Canada at the time of the transfer, the election can be made only with regard to taxable Canadian property, with regard to property used in a business carried on in Canada by the trust through an establishment in Canada before the transfer or with regard to property forming part of the inventory of such a business. This election is automatically deemed to be made for the purposes of Québec legislation. Therefore, you must send us proof that the election was made with the CRA and written notification no later than the filing deadline for the return or 30 days after the election was made (whichever is later).

688.0.0.1

2. In the case of a non-resident trust, the beneficiary concerned makes an election to that effect under federal legislation. The property transferred must not be taxable Canadian property, property used in a business carried on in Canada by the trust through an establishment in Canada before the transfer or property forming part of the inventory of such a business. In this situation, the ACB of the capital interest is equal to zero. This election is automatically deemed to be made for the purposes of Québec legislation. Therefore, the beneficiary must send us proof that the election was made with the CRA and written notification no later than the filing deadline for the beneficiary's return or 30 days after the election was made (whichever is later).

688.0.0.2

3. The property was transferred to a beneficiary other than the spouse (in the case of a spousal trust created after 1971), the settlor (in the case of an alter ego trust), or the settlor or his or her spouse (in the case of a joint spousal trust), no later than the earlier of the following dates:
   - the date on which the trust ceased to exist;
   - the date on which the trust is deemed to have reacquired the property immediately after the first deemed sale covered in one of points 2, 3 or 4 in section 5.1.5.

691

4. The trust is a revocable or blind trust and the following conditions are met:
   - the income attribution rule applies, at a given time, to any property of the trust (see section 3.2.2);
   - the property was transferred, in the lifetime of the person from whom the trust received the property, to a beneficiary other than that person, his or her spouse or former spouse, or a trust for the benefit of his or her spouse.

691.1

5. The **property was transferred to a non-resident beneficiary**. However, the property must not be immovable property located in Canada, Canadian resource property, timber resource property, property used in a business carried on in Canada (capital property or depreciable property in class 14.1 of Schedule B to the *Regulation respecting the Taxation Act*), property forming part of the inventory of such a business, entitlement to pension benefits and similar rights (under an RPP, a PRPP, a VRSP, a TFSA, an RRSP, a RRIF, a DPSP, an RESP, etc.), an interest in a life insurance policy in Canada (other than a segregated fund policy), or a share in the capital stock of an investment corporation owned by non-residents.

692

6. The **property was transferred to a beneficiary other than a partnership or corporation** that, in a qualifying disposition, had previously transferred the property (or property for which it was substituted) to the trust.

691.2

7. The **transfer constitutes a payment of the trust's income, capital gains or non-taxable dividends for the year**, even if the beneficiary is deemed not to have disposed of his or her capital interest on this occasion. At the time of the transfer, if the trust is resident in Canada and realizes a capital gain, it can **elect** not to take into account the tax consequences resulting from the allocation of the capital gain to one or more of its beneficiaries (that is, the trust does not deduct the capital gain on line 81 of its return and the beneficiaries do not have to report the capital gain). For more information, see section 5.3.2.2.

688.1, 688.1.1

5.1.2 Trust that is no longer resident in Canada or that becomes resident in Canada

5.1.2.1 Trust that is no longer resident in Canada

Any trust resident in Québec that ceases to reside in Canada at some time during the year is deemed to have sold its property for the FMV of the property at that time. This rule does not apply to certain property, in particular, immovable property located in Canada, Canadian resource property, timber resource property, property used in a business carried on by a trust through an establishment in Canada (capital property or depreciable property in class 14.1 of Schedule B to the *Regulation respecting the Taxation Act*), property forming part of the inventory of such a business, entitlement to pension benefits and similar rights (under an RPP, a PRPP, a VRSP, an RRSP, a RRIF, a DPSP, a TFSA, an RESP, etc.), or an interest in a life insurance policy in Canada (other than a segregated fund policy).

The trust may defer payment of any income tax owing further to the deemed sale, if it provides sufficient security. Contact us for more information.

785.2

5.1.2.2 Trust that becomes resident in Canada

An inter vivos trust that becomes resident in Canada after March 19, 2012, is deemed to have disposed of, immediately before becoming resident in Canada, any specified immovable held at that time, for proceeds equal to the FMV of the immovable at that time, and to have reacquired the immovable at a price equal to the proceeds of disposition.

Consequently, such a trust must include in its income tax return the taxable capital gain (or allowable capital loss) and the recapture of capital cost allowance (or the terminal loss) that may result from the deemed disposition.

Where the trust plans to sell the immovable at a later time, you must complete and send us form TP-785.2.6-V, *Notice of the Planned Disposition of a Specified Immovable Held by an Inter Vivos Trust at the Time the Trust Became Resident in Canada*. In this way, we know that the tax payable on the deemed disposition was paid, and we can issue the trust a compliance certificate (form TPF-785.2.7-V, *Certificate Concerning the Planned Disposition of a Specified Immovable Held by an Inter Vivos Trust at the Time the Trust Became Resident in Canada*).

5.1.3 Losses – Election referred to in section 1054 of the *Taxation Act* for the first taxation year of a GRE

In a succession's first taxation year, the deceased's legal representative may have sold:

- one or more of the succession's properties, resulting in a capital loss or in capital losses in excess of capital gains; or
- all of the succession's depreciable property in a prescribed class, resulting in a terminal loss.

Amending the deceased's income tax return

Under federal legislation, the legal representative can **elect** to report these losses in the deceased's income tax return for the year of death, rather than in the income tax return of the GRE. However, **since 2016**, the election has been valid only if the succession is a GRE.

If there is a terminal loss, the amount of the loss must not exceed the amount that would have been the total of the succession's non-capital loss and farm loss without the election.

For the purposes of Québec legislation, no such election can be made unless it is made under federal legislation, in which case it is automatically deemed to be made. Therefore, if the legal representative makes this election with the CRA, the representative must send us proof that the election was made and written notification along with a duly completed copy of form TP-1012.B-V, *Carry-Back of a Deduction or Tax Credit,* no later than the latest of the following dates:

- 30 days after the election was made;
- the filing deadline for the deceased's principal or separate return; or
- the filing deadline of the first return of the GRE.

The legal representative must clearly write on the deceased's return "Election referred to in section 1054" unless the return has already been filed at the time of the election. For more information on filing the principal and separate returns of a deceased person, refer to the *Guide to Filing the Income Tax Return of a Deceased Person* (IN-117-V).

If this election is made, check box 23 of the return.

If the sale of non-depreciable property resulted in a capital loss (deducted on one of lines 200, 201, 202, 203, 231, 204 or 206 of Schedule A) and this loss is deemed to become the deceased person's loss in accordance with the election referred to in section 1054, you must enter the amount of the loss on line 211 of Schedule A.

In the case of depreciable property, you must not take into account, in the calculation of the succession's business or property income, the terminal loss that is subject to the election referred to in section 1054.

Contact us for more information.

NOTE
The election has no effect on the income tax returns of the deceased for the years prior to the year of death. Under certain circumstances, the amount entered on the deceased's Québec return further to the election may differ from the federal amount.

1054, 1055

5.1.4 Security option – Election made under section 1055.1 of the *Taxation Act* for the first taxation year of a GRE

In the first taxation year of a succession, the legal representative of the deceased may have exercised or sold a security option (that is, an option to purchase shares of the capital stock of a corporation or mutual fund units) granted to the deceased by his or her employer.

Amending the deceased's income tax return

As of 2016, the legal representative can deduct a loss from an office or employment on line 207 of the deceased's principal income tax return if the succession is a GRE and the following requirements are met:

- a taxable benefit for the option was included in the deceased's principal income tax return; and
- the value of the option has decreased since the day of death, that is, its value at the time of death was greater than its value at the time it was exercised or sold.

The loss is equal to the amount by which A exceeds B, where:

A represents the value of the taxable benefit; and

B represents the amount by which the value of the option at the time it was exercised or sold exceeds the amount that the deceased paid to acquire the option.

However, if a deduction for the taxable benefit for the option was claimed on line 297 of the principal income tax return, the loss must be reduced by the same percentage used to calculate the deduction.

To deduct the loss, the legal representative must file form TP-1.R-V, *Request for an Adjustment to an Income Tax Return*, in the name of the deceased, and specify that he or she is making the **election** under section 1055.1 of the *Taxation Act*. The form must be filed by the filing deadline for the deceased's principal income tax return, or by the filing deadline for the first return of the GRE, whichever is later. For more information, refer to the *Guide to Filing the Income Tax Return of a Deceased Person* (IN-117-V).

If you are making an election under section 1055.1, check box 23 on the succession's return. Contact us for more information.

NOTE
The excess amount (A minus B) must be used to reduce the ACB of the option.

1000, 1055.1

5.1.5 Deemed sale applicable to certain trusts

On specific dates during a trust's existence, it is considered to have sold its property, the land included in the inventory of its businesses and its Canadian and foreign resource property for the FMV of the property on those dates, and to have repurchased the property immediately thereafter for the same amount. Each of these dates is called the "date of deemed sale."

Generally, the date of the first deemed sale is one of the following dates:

1. for a pre-1972 spousal trust, January 1, 1993, or the day on which the beneficiary spouse dies, whichever is more recent;
2. for a post-1971 spousal trust, the day on which the beneficiary spouse dies;
3. for a joint spousal trust, the day on which the surviving spouse dies;
4. for an alter ego trust, the day on which the settlor dies or, if the trust makes an election in its first income tax return, the 21st anniversary of the day on which the trust was created (in the latter case, the settlor cannot benefit from the rollover rule at the time of the transfer of property to the trust, nor can the settlor be exempted from AMT);
5. for a trust to which a person transferred property in circumstances under which rollover rules apply (as part of a qualifying transfer or a qualifying disposition), the day on which the person dies, if he or she is the only person to have an absolute or contingent right as a beneficiary of the trust, and if the transfer did not result in a change in the beneficial ownership of the property. To find out what constitutes a qualifying transfer or qualifying disposition, see section 3.1;
6. for all other trusts, the 21st anniversary of the day on which the trust was created.

A deemed sale occurs every 21 years on the same date after the first deemed sale.

The following dates are also considered to be dates of deemed sale:

7. the date on which property was distributed to a beneficiary because of the beneficiary's capital interest in the trust, if the trust contracted a debt to finance the distribution and one of the reasons for this was to avoid the income tax payable on the death of an individual;
8. the date on which the settlor ceased to be resident in Canada, if the settlor made a qualifying transfer of property to the trust and it is reasonable to believe that the transfer was made with a view to the settlor's departure (no sale is deemed to have taken place in the case of certain property, for example, taxable Canadian property or property included in the inventory of a business carried on in Canada by the settlor at the time of departure);
9. for a deemed resident trust, the day immediately preceding the date on which it is deemed to have ceased to be resident in Canada, either because it no longer has any resident contributors or resident beneficiaries, or because it becomes an exempt foreign trust (this excludes certain property, such as taxable Canadian property or property included in the inventory of a business carried on in Canada).

Since 2016, if the beneficiary of a trust mentioned in points 1 to 5 dies, the taxation year of the trust has been deemed to end at the end of the day of the death, and a new taxation year has been deemed to begin at the start of the following day.

454.2(c), 653, 654, 776.45(e)

Exceptions to deemed sales

Deemed sales (as explained above) do not apply to exempt property or to certain types of trusts.

"Exempt property" is property whose sale does not create income or gains on which income tax is payable, either because the trust is not resident in Canada or because of a provision in a tax agreement.

Deemed sales do not apply to the following trusts:

1. an amateur athlete trust;
2. an employee trust;
3. a master trust;
4. a trust established under an RPP, a PRPP, a VRSP, a profit-sharing plan, a DPSP, an RESP, an RDSP, an RSUBP, an RRSP, a RRIF, a TFSA or an employee benefit plan;
5. an employee life and health trust;
6. a trust governed by a foreign retirement arrangement;
7. an insurance segregated fund trust;
8. a retirement compensation arrangement (RCA) trust;
9. a religious organization;
10. a trust all or substantially all of whose property is held for the purpose of providing benefits to individuals, for their current or former office or employment;
11. a trust governed by an eligible funeral arrangement or a cemetery care trust;
12. a unit trust;
13. a trust in which all interests were indefeasibly vested on the date of the deemed sale. However, such a trust cannot be exempted from the deemed sale if it is:
    - a post-1971 spousal trust, an alter ego trust or a joint spousal trust;
    - a trust that contracted a debt in order to finance the allocation of property to a beneficiary because of the beneficiary's capital interest in the trust, if one of the reasons for the trust's action was to avoid the income tax payable on the death of an individual;
    - a trust that was resident in Canada on that date if, on that date, the trust's non-resident beneficiaries held interests whose FMV represented more than 20% of the FMV of the interests held by all the beneficiaries;

- a trust that elected, in its return for its first taxation year ending after December 31, 1992, not to be exempt from the 21-year rule;
- a trust whose terms, on that date, provide that all or part of a beneficiary's interest expires after a specified period (including a trust under which the interest expires upon the death of the beneficiary). In this case, the terms provide that a beneficiary's interest in the trust expires as soon as the trust distributes, to the beneficiary or to his or her succession, property whose FMV corresponds to the FMV of the interest immediately before the distribution, the trust may be exempted from the deemed sale.

647

The table below outlines the options available to trusts subject to the deemed sale rules and lists the forms to complete (where applicable).

TABLE 2 Summary of information related to a deemed sale

Options	**Pre-1972 spousal trusts**	**Post-1971 spousal trusts**	**Joint spousal trusts and alter ego trusts**	**Trusts mentioned in the other columns** (every 21st year after the first deemed sale) **and other trusts**
The trust must file form TP-653-V to report the income (or losses) and the capital gains (or capital losses) derived from the deemed sale (section 5.1.5.1).	Yes	Yes	Yes	Yes
The trust can file form TP-1031.1-V to elect to pay in instalments the excess amount of income tax resulting from the deemed sale (section 5.1.5.2).	Yes	Yes	Yes	Yes
The trust can elect to defer the payment of income tax payable resulting from the deemed disposition of its interest in a qualified public corporation using form TP-1033.18-V (see section 5.1.5.2).	Yes	Yes	Yes	Yes
The trust can designate as a taxable capital gain the amounts allocated to beneficiaries that are considered to be related to capital gains realized on the deemed sale (see "Capital gains deduction" in the instructions for line 53).	Yes	No*	No*	Yes
The trust can elect to allocate (and designate, if applicable) the income and the taxable capital gains derived from the deemed sale to a preferred beneficiary (see "Accumulating income" in section 5.3.3).	No	No	No	Yes

* A post-1971 spousal trust, a joint spousal trust and an alter ego trust cannot deduct the amounts that are allocated to the beneficiaries and considered to be derived from income or capital gains deemed to have been realized on the day of the spouse's death.

Since 2016, new rules have applied to certain types of trusts. Under certain conditions, a spousal trust can elect to have the trust's income for the year be taxable in the deceased beneficiary's final income tax return. For more information, see section 1.7.

653, 654, 655-656.2

5.1.5.1 Deemed sale form

Complete form TP-653-V, *Deemed Sale Applicable to Certain Trusts*, to report the income, capital gains and losses resulting from a deemed sale in the taxation year.

If property covered by the deemed sale was actually sold in the same taxation year, report the actual sale on Schedule A but do not complete form TP-653-V to report the deemed sale of the property, unless the trust is a spousal trust, a joint spousal trust, an alter ego trust or a self-benefit trust.

5.1.5.2 Deferral of the income tax payable further to a deemed sale

A trust that is required to report income or a capital gain on a deemed sale can elect to pay all or part of the excess income tax resulting from the sale in equal annual instalments (the number of instalments must not exceed 10).

The trust must file form TP-1031.1-V, *Election by a Trust to Pay in Instalments the Income Tax Resulting from a Deemed Sale Applicable to Certain Trusts*, duly completed, by the date on which it is required to file the income tax return for the taxation year in which the deemed sale is considered to have taken place. The first instalment must be paid on this date, which is 90 days after the end of the taxation year concerned. Subsequent instalments must be paid on or before the anniversary of this date. As such, if the election is made with respect to part of the excess income tax, the first instalment must be paid by the same date as the income tax payable for the year.

Example

Excess income tax payable after the deemed sale: $105,000

The trust elects to pay part of the excess amount of income tax ($100,000) in 10 instalments of $10,000. Accordingly, the trust must make a first instalment of $10,000 and pay the balance due of $5,000 (for a total of $15,000) within 90 days of the end of the 2021 taxation year.

Interest, which must be added to the amount of each instalment made after the first instalment date, is calculated at the prescribed rate and capitalized daily from the date on which the income tax would normally have been payable to the date on which the instalment is actually paid. The prescribed interest rates on debts are given on our website at revenuquebec.ca.

Sufficient security must be provided respecting the amount of income tax to be paid in instalments. Contact us for information concerning the security required.

1031.1

Deemed disposition of interests in a qualified public corporation

As of February 22, 2017, a trust can elect to defer, under certain conditions and for a maximum of 20 years, the payment of Québec income tax attributable to the deemed disposition of a qualified share of a qualified public corporation.

A "qualified share" is, as applicable:

- a share that is included in a large block of shares, or in a portion of a large block of shares, of a **qualified public corporation**;
- a share of the capital stock of a **private corporation** of which:
  - **more than 95%** of the FMV of the assets is attributable to a large block of shares, or to a portion of a large block of shares, of a qualified public corporation, if the deemed disposition took place after February 21, 2017, but before November 7, 2019,
  - **more than 50%** of the FMV of the assets is attributable to a large block of shares, or to a portion of a large block of shares, of a qualified public corporation, if the deemed disposition took place after November 6, 2019.

A “large block of shares” is a block of shares of a qualified public corporation that, in all circumstances, gives its owner **more than one third** of the corporation’s voting rights.

A “portion of a large block of shares” is one or more shares of the capital stock of a qualified public corporation held by a member of a related group of which each member owns shares of the capital stock of the corporation, if the related group owns a large block of shares that grants it more than one third of the corporation’s voting rights.

A “related group” is a group of shareholders comprised of persons who are each related to the other and own shares of the same qualified public corporation. These persons can be:

- individuals related by blood, marriage (or civil union), de facto union or adoption;
- a corporation and a person who is a member of a related group that controls the corporation;
- two corporations if one of them is controlled by a member of a related group that controls the other corporation.

A “qualified public corporation” refers to a corporation that, at a given time, with respect to a share of which the trust is the owner, meets the following conditions:

- It is a public corporation at the time.
- Its head office is in Québec at the time.
- Its base total payroll in Québec for the taxation year including the given time represents at least 75% of its base total payroll in Québec for the taxation year in which the deemed disposition of the shares occurred, if the given time does not correspond to the time of the deemed disposition.

The base total payroll in Québec of a public corporation is its average annual payroll in Québec calculated over a three-year period ending on the given taxation year, taking into account the total payroll of the corporations associated with the public corporation, if applicable.

If the trust elects to defer the payment of income tax payable resulting from the deemed disposition of its interest in a qualified public corporation, check box 30 of the return and enclose form TP-1033.18-V, *Election to Defer the Payment of Income Tax Resulting From the Deemed Disposition of a Trust’s Interest in a Qualified Public Corporation*. The trust must provide security deemed satisfactory no later than the deadline for paying the trust’s income tax for the taxation year in which the deemed disposition occurred.

1033.14-1033.16, 1033.18-1033.27

5.1.6 Converting a trust into a corporation – Property distribution and loss trading

This section provides information about the tax treatment applicable to a SIFT trust or a REIT upon its conversion into a corporation. The term “distribution” means the distribution of property during a SIFT trust wind-up event. See the definition of “SIFT trust wind-up event” in Part 6.

5.1.6.1 Distribution to a sole beneficiary and the tax consequences of reorganizing into a corporation

This section applies to the trust if it distributes its property to a sole beneficiary and all of the following conditions are met:

- The distribution is a SIFT trust wind-up event.
- The trust is either:
  - a SIFT wind-up entity whose sole beneficiary, at all times at which the trust makes a distribution, is a taxable Canadian corporation; or
  - a trust whose sole beneficiary, at all times at which the trust makes a distribution, is another trust that is a SIFT wind-up entity described in the point above.

- Where the trust is a SIFT wind-up entity, the distribution must have occurred no more than 60 days after the first of the following events:
  - the first distribution made by the trust;
  - the first distribution made to the trust by another trust.
- Where the property is shares of the capital stock of a taxable Canadian corporation:
  - the property was not acquired by the trust as part of a distribution referred to in section 688.3 of the *Taxation Act* (a distribution that is a SIFT trust wind-up event made by another trust);
  - the trust made an election under subparagraph 88.1(1)(d)(ii) of the *Income Tax Act* (federal statute).

After such a distribution, the rules for the winding up of a Canadian subsidiary apply, as if:

- the trust were a taxable Canadian corporation (referred to as a "subsidiary") other than a private corporation;
- the beneficiary were a taxable Canadian corporation other than a private corporation, where the beneficiary is a SIFT wind-up entity;
- the distribution made by the trust corresponded to the winding-up of the subsidiary;
- the beneficiary's interest in the trust corresponded to shares of a single class of shares of the capital stock of the subsidiary;
- the ACB of the beneficiary's interest immediately before the distribution corresponded to the proceeds of disposition of the shares immediately before the distribution;
- the beneficiary last acquired control of the subsidiary and of each corporation (including any trust that is deemed to be a corporation) controlled by the subsidiary at the time at which the beneficiary last became a majority-interest beneficiary of the trust, except for the purposes of sections 564.2 to 564.4.2 of the *Taxation Act*.

569.10.1, 569.0.2

5.1.6.2 Restrictions on loss trading

If, during the conversion of a SIFT trust or a REIT into a corporation, several beneficiaries dispose of their interests in the trust in exchange for shares of the capital stock of the corporation, control of that corporation and of each corporation controlled by it immediately before the exchange is deemed to have been acquired at the time of the exchange by a person or group of persons. This will restrict the trading of the corporation's losses further to the conversion.

If a SIFT wind-up corporation is the sole beneficiary of a trust and the trust controls another corporation, on a distribution of the shares of the other corporation that is part of a SIFT trust wind-up event, the SIFT wind-up corporation will be deemed not to acquire control of the other corporation because of that distribution. This will not limit the trading of the losses of the other corporation.

These measures apply to all transactions undertaken after 4 p.m. Eastern Standard Time on March 4, 2010, other than transactions that the parties are obligated to complete pursuant to the terms of an agreement in writing between the parties entered into before that date.

21.3.1 (3rd par.)

5.1.7 How to complete Schedule A

Selling price (column A of Part 1)

Enter the price at which the property was sold.

Expenses incurred for the sale (column B of Part 1)

Enter the amount of expenses incurred for the sale of the property. These are generally expenses that relate to the sale, including certain costs incurred to repair property intended for sale, finder's fees and other commissions, lawyer's fees, broker's fees, surveyor's fees, transfer duties and other reasonable expenses directly related to the sale.

Such expenses cannot be deducted in the calculation of the trust's income, but may be used to reduce the selling price of the property, thereby reducing the capital gain or increasing the capital loss on the sale. In the case of depreciable property, the net selling price (after subtracting the expenses) must be used to calculate the UCC of the class to which the property belongs.

234, 236

Adjusted cost base (column C of Part 1)

Enter the ACB of the property. The ACB of a property usually corresponds to its purchase price (also called "acquisition cost"), **plus** or **minus** certain adjustments provided for in the *Taxation Act*. The ACB may differ from the original cost (total of the purchase price and the expenses incurred for the acquisition, such as legal fees, surveying costs, evaluation fees and brokerage fees) if changes were made to the property between the time it was purchased and the time it was sold. For example, the cost of improvements to a building can be added to the building's original cost.

252, 253, 255

200 Qualified farm or fishing property

If the trust is a **personal trust**, calculate the net amount of the capital gains and capital losses on the qualified farm or fishing property.

See the definition of "qualified farm or fishing property" in Part 6.

NOTE
The capital gains deduction applies to property used mainly in a farming or fishing business, and to property used mainly in a combination of farming activities and fishing activities.

668.4, 726.6

201 Qualified small business corporation shares

If the trust is a **personal trust**, calculate the net amount of the capital gains and capital losses on the qualified small business corporation shares that are not qualified farm or fishing property. Do not take into account the allowable business investment loss, which must be entered on line 69 of the return.

See the definition of "qualified small business corporation share" in Part 6.

726.6, 726.6.1

213a Capital gains (or losses) on qualified property

Enter the net amount of capital gains (or losses) on qualified property (qualified farm or fishing property or qualified small business corporation shares) allocated to the trust by another trust or by a partnership.

105, 105.3

202 Other shares, mutual fund units and interest in an insurance segregated fund trust

Calculate the net amount of the capital gains and capital losses on shares other than qualified small business corporation shares, mutual fund units and interests in an insurance segregated fund trust.

Donated securities

Do not include capital gains realized on the **gift** of the following securities:

- a security listed on a designated stock exchange;
- a mutual fund corporation share;
- a mutual fund unit;
- an interest in an insurance segregated fund trust.

The tax exemption also applies to gifts made (or deemed to be made) to a qualified donee by a GRE at the time the donated property (or property substituted for the property) is transferred or by a succession that:

- has ceased to be a GRE solely because it has existed for more than 36 months after the death; and
- transfers property to the donee within 60 months following the death.

The trust may still have to report a capital gain on line 210 if:

- it received an advantage in recognition of or as consideration for such a gift; or
- the security is included in a class of property consisting of flow-through shares.

For more information, see the guide *Capital Gains and Losses* (IN-120-V).

231.2

NOTE

Special rules apply to identical property, that is, property in a given group that is identical in every respect to the other property in the group (for example, securities from the same class, such as shares of the capital stock of a corporation or mutual fund units). For more information, see the guide *Capital Gains and Losses* (IN-120-V).

259

203 Bonds, debt obligations, promissory notes and other similar securities

Calculate the net amount of the capital gains and capital losses on the bonds, debt obligations, promissory notes and other such property. Such a capital gain or loss may be determined from the RL-18 slip (or statements of account or transaction receipts).

Donated securities

Do not include capital gains realized on the gift of a bond, debenture, promissory note, mortgage, or other similar security that is issued or guaranteed by the Government of Canada or a provincial government or by one of its mandataries.

The tax exemption also applies to gifts made (or deemed to be made) to a qualified donee by a GRE at the time the donated property (or property substituted for the property) is transferred or by a succession that:

- has ceased to be a GRE solely because it has existed for more than 36 months after the death; and
- transfers property to the donee within 60 months following the death.

The trust may still have to report a capital gain on line 210 if it received an advantage in recognition of or as consideration for such a gift.

231.2

204 Immovables and depreciable property

Calculate the net amount of the capital gains and capital losses on the immovable property that is not personal-use property, and the total capital gains on depreciable property.

Where the selling price of the property is greater than its ACB, a capital gain results. (The ACB of depreciable property is its capital cost.)

The sale of depreciable property may also give rise to a recapture of capital cost allowance. No capital loss can be sustained on such property; however, there may be a terminal loss if all the property in the property's class is sold.

A recapture of capital cost allowance, like a terminal loss, must be included in the calculation of business income (line 55 of the return), farm income (line 56) or fishing income (line 57). However, terminal losses and a recapture of CCA resulting from the sale of rental property must first be reported on form TP-128.F-V, *Income Earned by a Trust from the Rental of Immovable Property*.

Since 2017, incorporeal capital property has been depreciable property included in the new class 14.1 of Schedule B to the *Regulation respecting the Taxation Act*. It is therefore subject to the usual rules applicable to depreciable property, including the rules regarding the recapture of capital cost allowance and capital gains. The half-year rule (50% reduction of the net amount of acquisitions) also applies to property in this class. Transitional rules are in place for property acquired before 2017 that is disposed of in 2017 or later.

Note that property acquired after **December 3, 2018**, that is qualified intellectual property (see the definition in Part 6) and that was included in class 14.1 gives entitlement to the additional CCA of 30%. Consequently, the trust can claim an additional CCA of 30% of the amount of CCA for the property for the **preceding taxation year**.

Property of a same class that gives entitlement to the additional CCA of 30% must be included in a separate class. The additional CCA does not reduce the UCC of the property and cannot be recaptured upon disposition of the property.

For more information concerning incorporeal capital property, refer to the guide *Business and Professional Income* (IN-155-V).

> NOTE
> If the trust realized a capital gain on a gift of ecological property (land with ecological value or a real or, since March 22, 2017, a personal servitude encumbering such land), see the instructions for line 210.

231.2, 248, 249, 252, 253

231 Virtual currency transactions (cryptocurrency, token, etc.)

A trust may use virtual currency as a method of payment or medium of exchange for purposes such as:

- acquiring goods or services;
- converting the currency to a monetary currency;
- exchange against another virtual currency;
- making a donation.

There may be tax consequences for a trust that engages in the mining of cryptocurrency.

To report income (or losses) resulting from the use of virtual currency or the mining of cryptocurrency, you must determine whether it is considered a capital gain (or loss) or business or property income (or loss). If a disposition did not occur in the course of carrying on a business, the virtual currency constitutes capital property for the trust.

For more information, see guide IN-120-V, *Capital Gains and Losses*, and guide IN-155-V, *Business and Professional Income*.

205 Personal-use property

Enter the total capital gains on personal-use property.

The personal-use property of a trust includes property intended primarily for the personal use or enjoyment of a beneficiary of the trust or a person related to the beneficiary. Such property includes personal and household effects, automobiles, boats, residences, cottages and antiques.

The trust may be required to report a capital gain if, during the year, it sold such property for more than its ACB. A capital loss may not be deducted for personal-use property other than precious property (line 206).

NOTE
- A gain must be reported only if the selling price of the property exceeds $1,000. If the ACB is less than $1,000, enter $1,000 as the ACB.
- The rule under which $1,000 is the minimum amount of both the selling price and the ACB does not apply to personal-use property acquired under an arrangement whereby the property is to be donated and the gift will qualify for a tax credit.

287-290, 300

Principal residence

A personal trust is generally exempt from income tax on the capital gain realized on the sale of property **designated as a principal residence for all years in which it was owned by the trust**, provided certain requirements are met. As a rule, a residence can be designated as a principal residence if:

- it is **ordinarily inhabited by a specified beneficiary or his or her child, spouse or former spouse**, and no other property is designated as a principal residence by any of these persons or by the trust; or
- the trust made an election under federal legislation to change the use of the property, either from being used to earn income to become the principal residence, or from being the principal residence to start being used to earn income.

A "specified beneficiary" is any person who has a beneficial interest in the trust and usually inhabits the trust's residence (or whose spouse, former spouse or child usually inhabits the residence).

Since 2017, to be eligible for the principal residence exemption, the specified beneficiary of a qualified trust must have been resident in Canada in the year for the property to be considered the trust's principal residence.

In the paragraph above, a qualified trust is a trust that falls under one of the following categories:

- **First category**: a spousal trust, a joint spousal trust, an alter ego trust or certain trusts for the exclusive benefit of the settlor during the settlor's lifetime. Depending on the type of trust, the specified beneficiary of the trust must be either the settlor or the settlor's spouse or former spouse.
- **Second category**: a QDT whose electing beneficiary for the year is:
  - a specified beneficiary of the trust; and
  - the spouse, de facto spouse, former spouse, former de facto spouse or child of the settlor of the trust.
- **Third category**: a trust for a minor child of deceased parents whose specified beneficiary for the year is an individual who meets the following conditions:
  - The individual's parents are not alive at the beginning of the year.
  - One of the parents is a settlor of the trust.
  - The individual is under 18 at the end of the year.

In the case of a joint spousal trust, a QDT or a trust for a minor child, there can be more than one specified beneficiary in a given taxation year.

As a rule, for years ending after October 2, 2016, a trust can designate a principal residence for Québec income tax purposes, provided the property was so designated for federal income tax purposes for the same year. No designation can be made for the purposes of Québec legislation unless it is made with the CRA.

Transitional rules are in place for trusts that do not qualify under the new rules and had a principal residence on December 31, 2016, that was disposed of after 2016. These trusts can also take advantage of the principal residence exemption on the capital gains accrued until the end of 2016.

For more information, see guide IN-120-V, *Capital Gains and Losses*.

> NOTE
> **As of 2017**, the status of spousal trust, joint spousal trust, alter ego trust or self-benefit trust is kept if the child, spouse or former spouse of the beneficiary usually inhabits the trust's principal residence.

The trust must complete form TP-274.F-V, *Designation of Property as a Principal Residence of a Personal Trust*, and enclose the form with the return for the year in which the principal residence is sold.

Where the principal residence is transferred to a beneficiary (or to the beneficiary spouse, in the case of a testamentary spousal trust created after 1971) in settlement of all or part of the beneficiary's capital interest in the trust, the trust is deemed to have sold the principal residence for its cost amount (since the rollover rule applies). However, the trust can **elect** under federal legislation to consider to have sold the residence for its FMV. For the purposes of Québec legislation, no such election can be made unless it is made under federal legislation, in which case it is automatically deemed to be made. Therefore, if the trust makes this election with the CRA, you must send us proof that the election was made and written notification no later than the filing deadline for the return or 30 days after the election was made (whichever is later). The trust must also enclose with these documents form TP-274.F-V. If, further to the election, the trust realized a capital gain, the capital gain may be tax-exempt if the conditions in the first paragraph under "Principal residence" above are met. Further to the election, the beneficiary is deemed to have purchased the residence for its FMV.

If the trust fails to send us a copy of any document filed with the CRA by the prescribed deadline, it will be liable to a penalty of $25 per day, up to $2,500.

Election concerning the change in use of a property

If a trust makes or had previously made an election under section 284 or 286.1 of the *Taxation Act*, in accordance with subsection 45(2) or 45(3) of the federal *Income Tax Act*, a property can be designated as the trust's principal residence for a maximum period of four additional years, even if the property was not ordinarily inhabited during that period by a specified beneficiary or the specified beneficiary's spouse, former spouse or child. The four-year period can be extended indefinitely if certain requirements are met for taxation years in which a change of workplace (whether it is the workplace of the specified beneficiary or his or her spouse) prevents the specified beneficiary from meeting the requirement of ordinarily inhabiting the property.

Since 2017, new measures have applied to the distribution of a principal residence made by a personal trust. The principal residence can be given to the beneficiary by rollover if:

- The trust owned or co-owned the property at the end of 2016.
- During the first taxation year of the trust that begins after 2016, the trust is not a qualified trust (a trust that belongs to one of the three categories described above).
- The property could be designated by the trust as its principal residence for the taxation year during which the disposition occurs if the requirement that the trust be a qualified trust were not taken into account.

If the principal residence is given to the beneficiary by rollover, it is deemed to have been owned by the beneficiary since the last time the trust acquired the property.

21.4.7, 272, 274.0.1, 274.1.1, 274.2, 275.1, 277, 285, 688.0.1

206 Precious property

Calculate the net amount of the capital gains and capital losses on precious property. Precious property includes:

- prints, etchings, drawings, paintings, sculptures, and any similar work of art;
- jewellery;
- rare folios, manuscripts and books;
- stamps; and
- coins.

Since precious property is a type of personal-use property, see the notes in the instructions for line 205 for details about the selling price and ACB of personal-use property.

Carry-over of a net loss

Losses sustained on precious property during the year can be deducted only from gains realized on other precious property in the year. If a net loss is entered on line 206, it can be used to reduce the net gains realized on precious property in the three previous years and the seven subsequent years. A loss that is carried forward is entered on line 207 of Schedule A for the subsequent year concerned, and a loss that is carried back **must** be entered in Schedule D for the year in which the loss is sustained (see the instructions for Schedule D, in section 5.4).

265-269

209 Non-qualified investments (RRSP, RRIF, RDSP or TFSA)

If the trust was established under an RRSP, a RRIF, an RDSP or a TFSA, calculate the net amount of capital gains and losses realized on the disposition of non-qualified investments during the year. Enter this amount directly on line 230 since the inclusion rate for such capital gains and losses is 100%.

905.0.13(b), 921.3(b), 935.24(b), 961.16

210 Adjusted amount of capital gains resulting from the donation of certain property

The capital gains realized on gifts of certain securities, on gifts of musical instruments and on ecological gifts (land with ecological value or a real or, since March 22, 2017, a personal servitude encumbering such land) made to a charitable organization or another qualified donee are tax-exempt.

The tax exemption also applies to gifts made (or deemed to be made) to a qualified donee by a GRE at the time the donated property (or property substituted for the property) is transferred or by a succession that:

- has ceased to be a GRE solely because it has existed for more than 36 months after the death; and
- transfers property to the donee within 60 months following the death.

If the trust received an advantage in recognition of or as partial consideration for the gift, it must report the portion of the capital gain that is proportional to the value of the advantage (referred to as the "adjusted amount of capital gains resulting from the donation of certain property"). In the case of ecological gifts, the certificate issued by the Minister of the Environment and the Fight Against Climate Change confirming the FMV of the gift must be enclosed with the return.

231.4, 232

211 Capital losses for which the election referred to in section 1054 of the *Taxation Act* is made

If the trust is a succession that disposed of property during its first taxation year and sustained a net capital loss as a result, enter the total amount of capital losses that are transferred to the deceased person in accordance with an election referred to in section 1054 of the *Taxation Act* (see section 5.1.3).

Since 2016, the election to enter the losses in the income tax return of the deceased for the year of death has been valid only if it is made by the legal representative of a GRE.

213b Capital gains (or losses) on other property

Enter the net amount of capital gains and losses on other property (that is **not** qualified property) that are allocated to the trust by another trust or by a partnership.

213c Capital gains (or losses) on other property as shown on the RL-16 slips

For information purposes, enter the net amount of capital gains and losses on property other than qualified property (amount from box A minus amount from box H) shown on the RL-16 slips. This amount is included on line 213b.

213d Net amount of capital gains (or losses) from a deemed sale applicable to certain trusts

Enter the net amount of capital gains and losses shown on line 21 of form TP-653-V, *Deemed Sale Applicable to Certain Trusts*.

For more information, see section 5.1.5.

216 Capital loss from a reduction in a business investment loss

Enter the amount calculated on line 11 of the work chart that you must complete to calculate the amount for line 69 of the return.

221 Reserve for the previous year

If a reserve was deducted for the previous taxation year, enter it as a capital gain on line 221. Complete column A in Part 2 of Schedule A if you have not already done so.

223 Reserve for the current year

If the trust realized a capital gain during the current year or a previous year, but did not receive the total amount of the selling price by the end of the year concerned, a reserve can be deducted on line 223 for the portion of the selling price the trust will receive after the taxation year.

The deductible amount of the reserve is equal to one of the following amounts, whichever is **least**:

- the capital gain prorated to the portion of the selling price of the property that is payable to the trust at the end of the year;
- the amount corresponding to:
  - 4/5 of the capital gain, for the year the property is sold,
  - 3/5 of the capital gain, for the year after the year the property is sold,
  - 2/5 and 1/5 of the capital gain and 0, for the next three years respectively;
- the reserve deducted in the trust's federal return (T3).

If the amount deducted in the federal return is the maximum amount deductible, the amount deducted on line 223 must be at least equal to this maximum amount but it must not exceed the amounts mentioned in the first two bullets above.

Complete column B in Part 2 of Schedule A if you have not already done so.

230 Taxable capital gains (or net capital loss)

The result obtained on line 230 constitutes the net amount of the taxable capital gains or the allowable capital losses for the year.

If the amount is a net gain, carry it to line 53 of the return. If the amount is a net loss, it can be used only to reduce taxable capital gains reported in the previous three years or in subsequent years (until it is deducted in full). If you wish to carry a loss to a previous year, follow the instructions for Schedule D, in section 5.4. **The trust cannot allocate a net capital loss to its beneficiaries**, except in the case of an insurance segregated fund trust or a revocable or blind trust that must allocate a capital loss sustained on transferred or loaned property.

231, 232, 236, 729, 851.21, 1012, 1012.1

240 to 250 Designated net taxable capital gains

If the trust was resident in Canada throughout the taxation year, complete lines 240 through 250 to determine the net taxable capital gains that may be designated to one or more beneficiaries. The beneficiaries must also be resident in Canada (unless the trust is a mutual fund trust throughout the year). In your calculation, you must subtract any capital losses from other years that have been carried to 2022, since these losses reduce the trust's taxable capital gains and, consequently, the amount of gains that may be designated.

If the trust designates taxable capital gains under subsection 104(13.2) of the *Income Tax Act* (federal statute), see the new measure respecting these elections under "Election referred to in sections 663.1 and 663.2 of the *Taxation Act*" in section 5.3.2.1.

668

5.2 Schedule B – *Investment Income, Gross-Up of Dividends Not Designated and Adjustment of Investment Expenses*

Complete Schedule B if the trust earned investment income or incurred carrying charges during the taxation year. Enclose the schedule with the return, along with all information slips received by the trust (for example, RL-3 slips, RL-15 slips and RL-16 slips).

300 to 303 Actual amount of dividends from taxable Canadian corporations

Enter the actual amount of **taxable dividends** received or deemed received from taxable Canadian corporations on lines 300 and 301, **except**:

- capital gains dividends (box I of the RL-3 slip), which must be reported on line 213b of Schedule A; and
- dividends received under a dividend rental arrangement, which must be entered on line 307.

Include dividends credited through banks, trust corporations, brokers, etc., even if the trust did not receive the related RL slips and information slips.

On line 300, enter the **eligible dividends** received.

On line 301b, enter the portion of the amount from line 301 that represents **ordinary dividends** received in 2022.

If the **ordinary dividends** are received by a **GRE whose taxation year began in 2021**, enter:

- on line 301a, the portion of the amount on line 301 that represents ordinary dividends received before January 1, 2022;
- on line 301b, the portion of the amount on line 301 that represents ordinary dividends received after December 31, 2021, but before January 1, 2023.

These dividends qualify for the dividend tax credit, either for the trust or for beneficiaries that are individuals to whom allocated income has been designated as dividends from taxable Canadian corporations. For **dividends received or deemed received after December 31, 2021**, any trust resident in Québec on the last day of a taxation year can claim the dividend tax credit for the year. Moreover, such a trust can deduct the total amount of the dividend tax credit to which it is entitled for the year from its income tax payable without taking into account the ratio (between the income earned in Québec and the income earned in Québec and elsewhere or in Canada for the year) used to determine its income tax payable for the year.

If the trust received a **non-taxable dividend**, such as a capital dividend from a CCPC, the dividend must not be included in the trust's income. Furthermore, if the trust was resident in Canada throughout the year, it must allocate the portion of the dividend that became payable during the year to the beneficiaries. You must advise the beneficiaries not to include the dividends in the calculation of their income. You must also enclose with the trust income tax return a statement containing the following information:

- the name of the corporation that paid the non-taxable dividend; and
- the names of the beneficiaries and the portion of the dividend payable in the year to each of them.

Non-taxable dividends (other than capital dividends) can be used to reduce the ACB of the shares on which the dividends were paid. This can affect the calculation of the capital gain (or loss) resulting from a subsequent sale of the shares.

21.32, 257(n), 497, 501, 502, 667, 686 (3rd par.), 1106, 1113, 1116

305 to 309 Other investment income from Canadian sources

Various types of income must be reported on these lines, the most common being bond, bank and mortgage interest and taxable dividends that do not give entitlement to the tax credit for dividends (such as those received under a dividend rental arrangement).

You must also report interest on income tax refunds received in the year. Interest credited to the trust's account by a financial institution is deemed, under the *Taxation Act*, to have been received by the trust.

Other investment income to be reported by the trust on line 308 may be shown in box O of an RL-1 slip, in box E, H or J of an RL-3 slip, in box 7 of an RL-15 slip or in box G of an RL-16 slip.

87(c), 92, 92.1.1

310 to 313 Foreign investment income

Enter all gross foreign investment income in Canadian dollars. To convert a foreign currency to Canadian dollars, use the exchange rate in effect at the time the income was received by or credited to the trust. If the income was received over the entire year, you may use the average annual exchange rate. For information on the exchange rate, consult the Bank of Canada's website at bank-banque-canada.ca.

This income may qualify for a foreign tax credit, either for the trust (see the instructions for line 124) or for beneficiaries whose allocated income has been designated as foreign investment income.

87(c), 772.6

315 to 319 Carrying charges and interest expenses

Enter, on the appropriate lines, the carrying charges and interest expenses incurred by the trust. Amounts incurred to earn both **Canadian and foreign** investment income must be apportioned in a reasonable manner between the two types of investment income (enclose the calculations with the return).

NOTE
The trust **cannot** deduct trailing commissions or the management expense ratio (MER) for its mutual funds because they are taken directly out of the funds' net performance.

In the case of carrying charges, also enclose a list providing both the type of charges and the amount. In the case of interest expenses, complete lines 315a through 315f.

157(d), 160 ff.

326 Amount of the gross-up of dividends not designated

The total of the results on line 326 corresponds to the amount of the gross-up of the dividends included on line 303 that are not designated as dividends from taxable Canadian corporations.

Gross-up rate for eligible dividends

For eligible dividends received or deemed received in 2021 or 2022, the gross-up rate is 38% of the actual amount of dividends.

Gross-up rate for ordinary dividends

For ordinary dividends received or deemed received in 2021 or 2022, the gross-up rate is 15% of the actual amount of dividends.

NOTE
If the income allocated to beneficiaries in the 2022 taxation year is designated as dividends, we consider that the beneficiaries received the dividends in 2022.

497

328 Dividend tax credit

The total of the amounts on line 328 represents the trust's dividend tax credit.

Rate of the tax credit for eligible dividends

The rate of the tax credit for eligible dividends is 11.7% of the gross-up amount of dividends received in 2022 (which represents 0.4249 of the amount of the gross-up).

For a **GRE whose taxation year began in 2021**, the rate of the tax credit for eligible dividends is 11.7% of the gross-up amount of dividends received in 2021 (which represents 0.4249 of the amount of the gross-up).

Rate of the tax credit for ordinary dividends

The rate of the tax credit for ordinary dividends is 3.42% of the gross-up amount of dividends received in 2022 (which represents 0.2622 of the amount of the gross-up).

For a **GRE whose taxation year began in 2021**, the rate of the tax credit for ordinary dividends is 4.01% of the gross-up amount of dividends received in 2021 (which represents 0.3074 of the amount of the gross-up).

For **dividends received or deemed received after December 31, 2019**, only a trust resident in Québec on the last day of a taxation year can claim the dividend tax credit for the year. Moreover, such a trust can deduct the total amount of the dividend tax credit to which it is entitled for the year from its income tax payable without taking into account the ratio (between the income earned in Québec and the income earned in Québec and elsewhere or in Canada for the year) used to determine its income tax payable for the year.

767

332 Fees paid to the trustee

Enter the amount of fees paid to the trustee for the purpose of earning property income (line 67). Do not include fees that are included in the amount on line 331 and those that are included in the calculation of rental income.

335 Other investment expenses

Enter other investment expenses, such as:

- repayments of inducements or of interest received; and
- 50% of the resource expenses that correspond to code 03 on line 70, other than the portion of these expenses that constitutes expenses incurred in Québec (expenses entered in boxes A-1, A-2, B-1 and D of the RL-11 slips and in boxes 28-1, 28-2, 29-1, 32, 60-1, 60-2, 61-1 and 62 of the RL-15 slips).

336.5, 336.5.1

343 Taxable capital gains that do not qualify for a deduction

Enter the taxable capital gains amount that does not qualify for the capital gains deduction on eligible property. Add any taxable capital gain that was allocated to the trust by another trust and that does not qualify for the deduction (50% of the amount by which the amount in box A exceeds the amount in box H of the RL-16 slip issued by the other trust) to this amount, which is either:

- the amount on line 23 of form TP-668.1-V, *Taxable Capital Gains of a Trust That Give Entitlement to a Deduction*; or
- the amount on line 53 of the return if the trust did not earn a capital gain on qualified farm or fishing property or a qualified small business corporation share.

345 Other investment income

Enter other investment income, such as:

- the portion of ordinary annuities that constitutes income (box B of the RL-2 slip);
- income accrued under a life insurance policy (box J of the RL-3 slip);
- inducements received; and
- 50% of the recovery of resource deductions if such a recovery is reported on line 61 for flow-through shares acquired after March 11, 2005, or issued further to an application for a receipt for the preliminary prospectus or an application for an exemption from filing a prospectus made after that date.

5.3 Schedule C – *Summary of Allocations and Designations*

Schedule C is a summary of all amounts allocated to the trust's beneficiaries during the taxation year and, if applicable, designated according to type. In addition to completing this schedule, you must prepare an RL-16 slip in each beneficiary's name. This means that if you amend or cancel an RL-16 slip, you must file an amended Schedule C.

In this schedule and in its instructions, the term "beneficiary" means any person to whom the trust must allocate income or a taxable capital gain. This person can be a **beneficiary that holds an interest in the trust** or a **transferor to which the income attribution rule applies** (see section 3.2), as well as the **electing contributor of a deemed resident trust** (see "Election to be an electing contributor" in section 1.2.2).

On the RL-16 slip for each beneficiary, enter the portion of trust income allocated to the beneficiary and, if applicable, the dividend tax credit and foreign income tax (refer to the *Guide to Filing the RL-16 Slip: Trust Income* (RL-16.G-V) for more information). **If the trust is not a personal trust, enter the beneficiary's share in the cost base adjustment of capital interest in the trust (column 4 of line 417 of Schedule C).**

657, 657.1

5.3.1 Allocations of amounts

When you allocate an amount to a beneficiary, you are stating the amount that the beneficiary is required to include in his or her income for the taxation year in which the trust's taxation year ends (the "year concerned"). The amount may belong to one of the following types:

1. the portion of the trust's income that became payable to the beneficiary in the year concerned;
2. the portion of the trust's income paid in the year concerned (up to a reasonable amount) for upkeep and maintenance expenses or taxes for property used by the beneficiary in accordance with the terms of the trust deed;
3. the value of any other benefit granted to the beneficiary in the year concerned. Such a benefit cannot be deducted by the trust, and its inclusion on line 81 of the return is counterbalanced by the addition of an equivalent amount on line 75;
4. the portion of the trust's accumulating income for the year concerned that is allocated to the beneficiary (see section 5.3.3);
5. the portion of the trust's income for the year concerned allocated to a transferor covered by the income attribution rule or to the electing contributor of a deemed resident trust, as applicable.

Allocated income that is subject to specific designations must be entered on lines 400 through 405 of Schedule C. Amounts that are not designated must be reported on line 406. For more information, see "Designations of income and taxable capital gains" in section 5.3.1.1.

The total of the amounts allocated to the beneficiaries (line 410) **can be deducted on line 81** of the trust's return, subject to certain restrictions (see points 2, 4 and 5 in section 5.3.1.2).

NOTE

- Before you allocate income to the beneficiaries, you must take into account certain deductions claimed by the trust on lines 64, 67 and 70 of the return. Each of these deductions must be subtracted from the income to which it pertains. Deductions relating to more than one type of income must be apportioned in a reasonable manner among the types of income. However, deductions for Canadian or foreign exploration and development expenses cannot be used to reduce the income allocated to the beneficiaries.
- A trust that was resident in Canada throughout the year and that received a non-taxable dividend from a corporation resident in Canada must allocate to a beneficiary the portion of the dividend that is considered to be paid or payable. The amount allocated in this way is not taxable for the beneficiary and must not be entered on the beneficiary's RL-16 slip (see the instructions for line 303 of Schedule B, in section 5.2).

661-663, 667

5.3.1.1 Designations

Designation is optional for some amounts and mandatory for others (such as the dividend tax credit, the foreign income tax credit and the cost base adjustment of a capital interest).

Designations of income and taxable capital gains

As a rule, income allocated by a trust to a beneficiary is considered to be property income derived from an interest in the trust.

However, the trust may designate certain income that it allocated to its beneficiaries, so that the source of the income is identified. For instance, a trust may designate income as a pension benefit allocated to the surviving spouse, as a taxable dividend paid by a Canadian corporation or as a capital gain.

The beneficiary may therefore claim the deductions or credits applicable to such income. For example, the beneficiary can:

- claim the amount for retirement income;
- claim the dividend tax credit;
- claim the taxable capital gains deduction; or
- include in his or her income only 50% of a capital gain.

A trust resident in Canada throughout the year may therefore designate income as:

- taxable dividends from taxable Canadian corporations;
- foreign non-business income;
- income from an income-averaging annuity for artists;
- net taxable capital gains;
- foreign business income; and
- capital losses (in the case of an insurance segregated fund trust).

Since 2016, the designation of certain benefits allocated by the trust to its beneficiaries has been limited to GREs that were resident in Canada throughout the year. Only this type of succession can designate income as:

- pension benefits qualifying for a tax credit;
- the portion of a death benefit from an office or employment that qualifies for an exemption;
- retiring allowances that can be transferred;
- single pension payment that can be transferred.

You must enter the designated income on the appropriate lines of Schedule C. The share of each beneficiary concerned must be entered in box A, B, C1, C2, D, E, F or G of the RL-16 slip. For more information, see section 5.3.4.

Designations of amounts as dividend tax credits, foreign income tax, income tax withheld from an income-averaging annuity for artists and donations allocated by a religious organization

If the trust designates income as taxable dividends from taxable Canadian corporations, it must then designate an amount as a dividend tax credit.

If the trust designates income as foreign income and it paid foreign income tax, it must designate an amount as foreign income tax.

If the trust designates income as income from an income-averaging annuity for artists, it must then designate an amount as income tax withheld.

The election made by a trust that is a religious organization to renounce the tax credit for donations and gifts in favour of certain of its members results in the designation of amounts as donations allocated by a religious organization.

Enter the designated amounts on the appropriate lines of Schedule C and the share of each beneficiary concerned in the appropriate boxes of the RL-16 slip. For example, enter:

- on line 414, the dividend tax credit (box J of the RL-16 slip);
- on line 415, the foreign income tax on business income (box K of the RL-16 slip);
- on line 416, the foreign income tax on non-business income (box L of the RL-16 slip);
- on lines 421 and 422, the various foreign pension income (boxes B and D of the RL-16 slip);
- on line 418, the gifts allocated by a religious organization (box N of the RL-16 slip); and
- on line 428, the split income not reported elsewhere on the RL-16 slip (Box G of the RL-16 slip).

Designation of an amount as cost base adjustment of a capital interest

The designation of an amount as cost base adjustment of a capital interest applies only to trusts that are not personal trusts. The amount to be designated as a cost base adjustment of capital interests may be positive or negative.

A positive adjustment generally corresponds to capital distributions, non-taxable benefits granted to beneficiaries and amounts designated under subsections 104(13.1) and 104(13.2) of the *Income Tax Act* (federal statute) (see section 5.3.2). Each beneficiary's share in the adjustment (positive amount in box M of the RL-16 slip) must be used to reduce the ACB of the beneficiary's capital interest in the trust.

A negative adjustment must be made by a mutual fund trust if, for example, it made an election under section 1121.1 of the *Taxation Act*. Each beneficiary's share in the adjustment (negative amount in box M of the RL-16 slip) must be used to increase the ACB of the beneficiary's units.

255(j.3), 257(n)(i.1), 651.1, 663, 666-668, 669.1, 669.2, 671, 1121.3

5.3.1.2 Exceptions and limits

Whether the trust reports income for itself or allocates income to the beneficiaries, it must comply with the terms of the will or trust deed, while taking into account certain fiscal restrictions, such as the following:

1. A trust cannot allocate a loss to its beneficiaries, unless it is:
   - a net capital loss, in the case of an insurance segregated fund trust;
   - a loss sustained on transferred or loaned property or, in the case of a revocable or blind trust, a capital loss sustained on the disposition of the property.

467, 851.16

2. A post-1971 spousal trust, an alter ego trust, a self-benefit trust or a joint spousal trust cannot deduct the portion of the allocated income referred to in points 1 and 2 of section 5.3.1:
   - if that portion is considered to be derived from the income or taxable capital gain realized on property (capital property, land included in the inventory of a business, or Canadian or foreign resource property) further to:
     - the deemed sale of the property on the date of the spouse's death or, in the case of an alter ego trust or self-benefit trust, the settlor's death or, in the case of a joint spousal trust, the surviving spouse's death,
     - the transfer of property to another beneficiary, where the spouse, settlor or surviving spouse, as applicable, is still alive;
   - if that portion is allocated to another beneficiary provided the spouse, the settlor or the surviving spouse, as applicable, is alive throughout the year;
   - if, for the year in which the spouse, settlor or surviving spouse dies, that portion is allocated to another beneficiary and that portion exceeds the income that the trust earned after the death.

657(a)(i)-(iii)

3. A trust **cannot deduct** any allocated income referred to in points 1 and 2 of section 5.3.1 if the trust deed provides that a beneficiary may have a greater share of the trust's property than of its income. However, this restriction does not apply to a personal trust, an employee trust or a trust established under an employee benefit plan.

657.2

4. A SIFT trust **cannot deduct** the non-deductible allocation amount. The amount deductible on line 81 of the return must not exceed the amount on line 173a of Schedule E.

657(a)(i) and (iv)

5. A trust cannot deduct the amount of interest or dividends it receives from an investment corporation that is owned by persons that are not resident in Canada if the trust holds all its property on behalf of its non-residents.
6. **Since 2016**, a trust to which property has been transferred in circumstances favoring the application of the rollover rule (as part of an eligible transfer or an eligible disposition) has not been able deduct the portion of the allocated income referred to in points 1 and 2 of section 5.3.1 for the taxation year during which the beneficiary dies.

454.2(b)(ii), 692.5

5.3.2 Income or taxable capital gain that was paid or that became payable in the year to a beneficiary but was reported by the trust

5.3.2.1 Election referred to in sections 663.1 and 663.2 of the *Taxation Act*

If the trust was resident in Canada throughout the year, it may have filed with the CRA, for that year, an **election** to make a **designation of income pursuant to subsection 104(13.1)** of the *Income Tax Act* (federal statute) or a **designation of a taxable capital gain pursuant to subsection 104(13.2)** of that Act.

If such an election is made, either section 663.1 or section 663.2 of the *Taxation Act* will apply to the calculation of the trust's income or taxable capital gain that was paid or that became payable to its beneficiaries during the year.

The income and capital gain concerned are not deemed paid nor to have become payable in the year to the beneficiaries. Consequently, these amounts must not be entered in Schedule C or on the RL-16 slips issued to the beneficiaries. As a rule, the amounts reduce the ACB of the beneficiaries' capital interest in the trust, **unless** the interest was acquired for no consideration and the trust was a personal trust.

Since the income designated pursuant to subsection 104(13.1) is not deducted on line 81 of the return, the trust can claim (on line 91) a non-capital loss from a previous year.

Similarly, since the capital gain designated pursuant to subsection 104(13.2) is not deducted on line 81 of the return, the trust can claim a net capital loss (line 92) or a non-capital loss (line 91). Regardless of the type of loss that is carried over, you must complete Part 3 of Schedule A to calculate the net taxable capital gains that are designated for the year.

Since 2016, there have been limits to the elections that can be made under subsections 104(13.1) and 104(13.2) of the *Income Tax Act* (federal statute), which allow the trust to designate, for a taxation year, a portion of its income that is not deemed paid and did not become payable to its beneficiaries. These designations can no longer be made if the trust's taxable income (taking into account the amounts of the designations) for the year is higher than zero.

Furthermore, if the beneficiary of an alter ego trust, a spousal trust, a joint spousal trust or a trust to which property has been transferred under circumstances that favor the application of the rollover rule dies during the year, no amount can be designated by the trust for a given year to any beneficiary other than the deceased beneficiary.

Complete Part 4 of Schedule C. Enclose a copy of all documents submitted to the CRA for the designations (for example, the trust's T3 return and the document showing the income covered by the designations under subsections 104(13.1) and 104(13.2)).

The deductible amount on line 81 **must not exceed** the result of the following calculation:

A – B, where

- A represents any income or taxable capital gain that the trust must allocate to the beneficiaries for Québec income tax purposes without the consequences of subsections 104(13.1) and 104(13.2);
- B represents the total of the designations under these subsections.

663.2.1

5.3.2.2 Election referred to in section 688.1.1 of the *Taxation Act*

The trust can make the **election** referred to in section 688.1.1 of the *Taxation Act* to report as its own any taxable capital gain paid or payable during the year to its beneficiaries if the following conditions are met:

- the capital gain resulted from a transfer of property to one of its beneficiaries while the trust was resident in Canada;
- the transfer was made under the circumstances described in point 7 of section 5.1.1 (see "Transfer of property at its FMV").

This election is made under paragraph 107(2.11)(a) or paragraph 107(2.11)(b) of the *Income Tax Act* (federal statute). No such election can be made for Québec income tax purposes unless it is made with the CRA, in which case it is automatically deemed to be made. If the trust has filed this election with the CRA, you must send us proof that the election was made and written notification within 30 days after the date the election was made or after the filing deadline for the return, whichever is later.

5.3.3 Accumulating income allocated to a preferred beneficiary

When the trust files its federal income tax return for a given taxation year, it can make a **joint election** with a preferred beneficiary to have some or all of its accumulating income allocated to the beneficiary. In such a case, you must enter the lesser of the following amounts as income on the beneficiary's RL-16 slip:

- the amount that the trust elected to allocate and that is entered in the document submitted to the CRA;
- the allocated portion of the trust's accumulating income (see the explanations below under "Accumulating income") calculated on the basis of the ratio between the amount covered by the election submitted to the CRA for the preferred beneficiary and the total amount covered by all the elections submitted to the CRA for the trust's preferred beneficiaries.

You can deduct on line 81 the total of the amounts entered on the preferred beneficiaries' RL-16 slips.

Check the box on line 4 of Schedule C. Enclose a copy of all documents that you submitted to the CRA for the election, such as:

- the note proving the election was made, signed by the trustee and the preferred beneficiary (or his or her tutor), and showing the amount allocated;
- the note showing the calculation of the preferred beneficiary's share in the accumulating income of the trust, signed by the trustee.

Accumulating income

The accumulating income of a trust corresponds to the trust's income for the year (line 80 of the return), minus the total of the allocated income referred to in points 1, 2, 3 and 5 of section 5.3.1. Certain amounts must then be subtracted from the result obtained, such as:

- in the case of a spousal trust, an alter ego trust or a joint spousal trust, all income (or losses) and all capital gains (or capital losses) resulting from:
  - the deemed sale of property (capital property, land included in the inventory of a business, or Canadian or foreign resource property) upon the death of the spouse, the death of the individual whose death results in the deemed sale (in the case of an alter ego trust) or the death of the surviving spouse (in the case of a joint spousal trust), or
  - the transfer of such property to a beneficiary other than the spouse during the spouse's lifetime;
- amounts from a NISA Fund No. 2, except those received by a spousal trust during the spouse's lifetime;
- in the case of a testamentary spousal trust where the beneficiary spouse died in the year, the amount deemed paid to the trust regarding the balance (determined on the date of death) of a NISA Fund No. 2.

NOTE

- The accumulating income allocated to a preferred beneficiary may be designated if it is considered to be derived from one of the following sources:
  - taxable dividends from taxable Canadian corporations;
  - certain pension income (mentioned in Part 1 and Part 3 of Schedule C);
  - taxable capital gains;
  - foreign business income;
  - foreign non-business income.
- In certain situations, the CRA may extend the time for making the election or grant the trust permission to amend or revoke the election. In this case, you must notify us of this, in writing, and provide a copy of the documents you sent to the CRA. The trust is liable to a penalty of $100 for each full month elapsed from the filing deadline for the income tax return to the date on which the notice was sent to us, to a maximum of $5,000. Contact us for more information.

657(b), 658-659.1

5.3.4 How to complete Schedule C

Part 1 of Schedule C is used to report the income allocated (and, if applicable, designated) to the beneficiaries.

Complete:

- Part 2 if you are required to report other amounts designated as income, foreign income tax, a dividend tax credit or the cost base adjustment of a capital interest in the trust;
- Part 3 if you are required to report the allocated income (or losses) for which additional information must be provided on the RL-16 slip;
- Part 4 if you are required to provide the name of the transferor (line 435) to which the income attribution rule applies, or the name of the electing contributor (line 436) and, if applicable, the total amount of income and taxable capital gains (line 440) and the portion of this amount (line 441) that is designated under subsection 104(13.1) or subsection 104(13.2) of the *Income Tax Act* (federal statute).

Beneficiaries resident in Canada (columns 1 and 2 of Part 1)

Enter, by type of designated amount, the amounts allocated to beneficiaries resident in Canada in the appropriate column. The designated amounts must also be reported in the appropriate boxes of the RL-16 slip, based on each beneficiary's share of the amounts allocated.

Beneficiaries not resident in Canada (column 3 of Part 1)

Enter, by type, the amounts allocated to beneficiaries not resident in Canada in column 3. In this way, you can readily determine the source of the income retained by the trust.

If you are completing RL-16 slips for non-resident beneficiaries, do not take into account the source of allocated income. Enter only the total allocated income in box G of the RL-16 slip. However, if the trust was a mutual fund trust resident in Canada throughout the taxation year, you may designate the portion of this income corresponding to taxable capital gains, provided it is reasonable to consider that the gains are included in the beneficiaries' income.

NOTE

Since February 27, 2018, the cross-border anti-surplus-stripping rule applicable to corporations has applied to transactions involving a trust. The trust has to allocate its assets, liabilities and transactions to its beneficiaries based on the relative FMV of the beneficiaries' interests in the trust. For more information, see section 3.8.

400 Designated net taxable capital gains

Enter the amount of the designated net taxable capital gains. The total of these gains (column 4) must correspond to the amount entered on line 250 of Schedule A.

Enter, in box A of the RL-16 slip of each beneficiary to whom taxable capital gains are being designated, the result obtained when the beneficiary's share of the amount in column 4 on line 400 is multiplied by 2. This is the actual amount (100%) of the beneficiary's capital gain.

Certain capital gains designated by a personal trust may qualify for a deduction for the beneficiary concerned. See the instructions for line 412 on page 123.

Foreign capital gains

Foreign income tax that the trust paid on a capital gain realized on the sale of foreign property may qualify for a foreign tax credit, either for the trust or for the resident beneficiaries to whom income is allocated as foreign capital gains. In the latter case, enter the total of these gains in column 4 on line 420 of Schedule C, and enter the beneficiary's share on the RL-16 slip. The beneficiary will use this information to calculate his or her foreign tax credit. For more information, consult the *Guide to Filing the RL-16 Slip: Trust Income* (RL-16.G-V).

Split income

A capital gain that constitutes split income is deemed a taxable dividend other than an eligible dividend (see the definition of the term "split income" in Part 6) if the beneficiary has not reached the age of 18 before the end of the year. Consequently, you must enter in a blank box of the RL-16 slip either "A-2" (for a capital gain realized on shares of a private Canadian corporation) or "A-3" (for a capital gain realized on shares of a private foreign corporation), followed by the amount. If the capital gain that constitutes split income remains a capital gain, enter "A-4" in a blank box of the RL-16 slip, followed by the amount of the gain.

668, 668.3, 671, 671.1

401 Single pension payment

If the trust is a GRE that was resident in Canada throughout the taxation year, enter the amount allocated to a surviving spouse as a single payment from one of the following plans:

- an RPP;
- a DPSP; or
- a foreign retirement arrangement relating to services that the deceased person rendered while not resident in Canada.

This amount may qualify for a deduction if it is transferred to an RRSP, a PRPP, a VRSP or an RPP. Enter the amount in box B of the RL-16 slip issued to the surviving spouse.

Note that in the case of a single payment from an RPP or DPSP, the amount of income tax withheld on that payment cannot be allocated to the beneficiary by the succession. The succession is the only one who can claim the refund of this amount on line 152 of the return.

317, 339(d), 885

402a and 402b Actual amount of eligible and ordinary dividends

Enter the actual amounts of eligible and ordinary dividends in column 1 or column 2, or in each column on lines 402a and 402b. You must also enter the amount from line 323 of Schedule B in column 3.

In the case of a **SIFT trust**, the amount in column 4 on line 402a must correspond to the amount on line 185 of Schedule E.

403 Retirement pension giving entitlement to a tax credit

If the trust is a GRE that was resident in Canada throughout the taxation year, enter any amount allocated to the **surviving spouse** as life annuity payments under a pension plan, an income-averaging annuity or an ordinary annuity. Include any annuity related to services that the deceased person rendered while not resident in Canada. Carry the total amount to box D of the RL-16 slip issued to the surviving spouse, so that he or she can claim the amount for retirement income.

317(c), 317 (d), 669.1, 752.0.8

406 Other income

Enter all the amounts allocated, other than the amounts on lines 400 through 405. Enter each beneficiary's share in box G of the beneficiary's RL-16 slip, and enter any additional information in the blank boxes of the slip.

The income to be reported on line 406 includes:

- property income (such as interest, dividends and income from a rental property);
- certain pension income;
- a death benefit paid under the QPP or the CPP;
- a death benefit paid to the beneficiary in recognition of the services rendered by the deceased person in the course of an office or employment, such as an amount for accumulated sick leave (see the instructions for line 61);
- a retiring allowance;
- a single payment from an RPP (other than a payment from a foreign RPP or a foreign retirement arrangement for services that the deceased person rendered while not resident in Canada that is allocated to the surviving spouse, which must be reported on line 401);
- an income-averaging annuity for artists;
- business income, other than foreign business income;
- upkeep expenses and other benefits granted to a beneficiary.

For more information, refer to the *Guide to Filing the RL-16 Slip: Trust Income* (RL-16.G-V).

661-663, 669.2

411 Allowable capital losses – Insurance segregated fund trust, or revocable or blind trust

Enter the amount of allowable capital losses allocated to the beneficiaries by an insurance segregated fund trust or a revocable or blind trust (see point 1 in section 5.3.1.2).

Multiply each beneficiary's share of the amount in column 4 on line 411 by 2 and enter the result (preceded by a minus sign [–]) in box A of each beneficiary's RL-16 slip. This is the actual amount (100%) of the capital loss.

412 Net taxable capital gains giving entitlement to a deduction

If the trust is a personal trust that is designating all or part of the capital gains allocated to beneficiaries as taxable capital gains, it must also enter on line 412 the amount of designated gains that qualifies for a deduction. The eligible gains are those realized on qualified property (qualified farm or fishing property or qualified small business corporation shares).

Complete form TP-668.1-V, *Taxable Capital Gains of a Trust That Give Entitlement to a Deduction* (this form can also be used to calculate the CNIL). Then enter, in column 4 on line 412 of Schedule C, the lesser of the following amounts:

- the total amount of the designated net taxable capital gains (column 4 on line 400 of Schedule C);
- the amount of the taxable capital gains that give entitlement to a deduction (line 46 of form TP-668.1-V).

For each beneficiary to whom the gains are being designated, multiply by 2 the beneficiary's share of the amount in column 4 on line 412. Enter the result in box H of the beneficiary's RL-16 slip. This is the actual amount (100%) of the capital gain qualifying for a deduction.

Taxable capital gains on qualified property

The amount of the taxable capital gains realized on qualified farm or fishing property that give entitlement to a deduction corresponds to the lesser of the following amounts:

- the total amount of the taxable capital gains on qualified farm or fishing property;
- the amount in column 4 on line 412 of Schedule C.

The amount of the taxable capital gains realized on qualified small business corporation shares that give entitlement to a deduction corresponds to the lesser of the following amounts:

- the total amount of the taxable capital gains on qualified small business corporation shares;
- the amount in column 4 on line 412 of Schedule C, minus the amount of the capital gains on qualified farm or fishing property that give entitlement to a deduction (see the previous paragraph).

Enter the amount related to qualified farm or fishing property in column 4 on line 430 and the amount related to qualified small business corporation shares in column 4 on line 431 of Schedule C.

668.1, 668.2

413 and 414 Taxable amount of eligible and ordinary dividends and dividend tax credit

Enter, on the appropriate lines, the taxable amount of all eligible and ordinary dividends allocated to beneficiaries that are individuals (other than trusts that are charities) and the amount of the dividend tax credit.

Only beneficiaries that are individuals (including trusts) can claim a tax credit on the taxable amount of dividends from taxable Canadian corporations.

497, 767

417 Cost base adjustment of capital interest

Enter the amount of the change of capital in the trust (see the instructions under "Designation of an amount as cost base adjustment of a capital interest" in section 5.3.1.1).

418 Donations allocated by a religious organization

If the trust is a religious organization that elects to renounce the tax credit for donations and gifts in favour of its adult members, enter the total eligible amount of the donations subject to the tax credit.

851.33

428 Split income

Enter the total split income included in box G of the RL-16 slip of each beneficiary concerned.

429 Loss sustained on transferred or loaned property – Revocable or blind trusts

If the trust is a revocable or blind trust, enter the amount allocated to the beneficiary for the loss sustained on property transferred or loaned by the beneficiary to the trust (see point 1 of section 5.3.1.2).

Issue a separate RL-16 slip in the name of this beneficiary and enter in box G the amount of the loss, preceded by a minus sign (–).

5.4 Schedule D – *Carry-Back of a Loss*

The trust may have sustained, in a taxation year, one or several types of losses, including:

- a non-capital loss;
- a farm loss or a fishing loss;
- a net capital loss;
- a net loss on precious property;
- a restricted farm loss.

The losses listed above can be carried back three years and forward a certain number of years, depending on the type of loss. At the end of the tenth year that follows the year in which the trust sustained a business investment loss (line 511), the amount of that loss or the unused portion of a non-capital loss, whichever is less, will become a net capital loss at that time.

Schedule D **must** be completed in order to carry a loss back to a previous year; it must be filed with the trust income tax return. You can also use Schedule D to determine the trust's non-capital loss for the year concerned.

In the upper right-hand corner of the schedule, you must enter the end date of the taxation year ("taxation year concerned") and in which a loss was sustained. You can use Schedule D to carry back a loss sustained in 2022 or 2023. Make sure you enter the end date(s) of the taxation year(s) to which the loss is being carried (one or more of the three previous taxation years).

The carry-back of a non-capital loss has no incidence in the year to which the loss is carried (year of the carry-back) with respect to the amounts already allocated to the beneficiaries.

However, the carry-back of a **net capital loss** may have the following consequences in the year of the carry-back:

- The carry-back of the loss reduces the taxable capital gains of the trust. The result obtained constitutes taxable capital gains that could be designated, up to the amount on line 80 of the return. If the result (amount from line 250 of Schedule A that you amended to take into account the carry-back of the loss) is less than the amount of taxable capital gains already designated (line 250 of Schedule A before the carry-back of the loss), you must file an amended Schedule C and amended RL-16 slips to reduce the taxable capital gains designated. You must ensure that the total income allocated to the beneficiaries remains unchanged.
- The carry-back of the loss may increase the amount on line 355 (other adjustment of investment expenses) of Schedule B for that year, because it must be entered on line 338 of that schedule.
- The carry-back of the loss may create or increase a non-capital loss for that year.

The income tax refund resulting from the carry-back of a loss may be applied to the payment of an amount owed for another taxation year.

A net capital loss on precious property can be used only to reduce a capital gain realized on other precious property. Similarly, a restricted farm loss that is carried-over to a given year can be used only to reduce farm income for that year. In all cases, the loss must be carried back in accordance with sections 727 to 737 of the *Taxation Act* or, in the case of precious property, in accordance with sections 265 to 269.

In this schedule and in its instructions, the term "beneficiary" means any person to whom the trust must allocate income or a taxable capital gain. This person can be a beneficiary that holds an interest in the trust, a transferor to which the income attribution rule applies or the electing contributor of a deemed resident trust.

5.5 Schedule E – *Income Tax on the Taxable Distributions Amount and Calculation of Eligible Dividends to Be Designated*

Complete Schedule E if the trust is a **SIFT trust**.

The following amounts must be the same:

- the amount in column 4 on line 402a of Schedule C and the amount on line 185 of Schedule E;
- the amount on line 410 of Schedule C and the amount on line 170 of Schedule E.

657, 663.4, 1129.70 ff.

5.6 Schedule F – *Income Tax Payable by a Specified Trust for a Specified Immovable*

Complete Schedule F if the trust is a specified trust that held a specified immovable or was a member of a partnership that held such an immovable.

If the trust did not earn income from other sources in Québec, you must complete only lines 1 through 11 and Part 5 of the return before reporting any property income derived from the rental of a specified immovable and calculating the income tax payable on such income on Schedule F of the return.

If the trust earned taxable income from other sources in Québec (such as business income), enter the income on the return and calculate the income tax payable on that income in the usual way. Also complete Schedule F. For example, if the trust earned rental income from a **specified immovable** and business income related to the rental of another **immovable located in Québec**, you must:

- complete Schedule F to calculate the rental income from the specified immovable and the related income tax payable, and enter the income tax amount on line 138 of the return;
- enter the net rental income from the other immovable on line 55 of the return and complete the rest of the return.

How to complete Schedule F

Provide the requested information in parts 1 through 4, then complete parts 5 and 6 to calculate the net rental income and Part 7 to calculate the income tax payable.

Note that you must complete, for each specified immovable, a separate copy of Schedule F and of the capital cost allowance table on page 3 of the schedule. However, complete Part 6 only once to report all the rental income from specified immovables (including the income allocated by a partnership).

604 Portion of the immovable used by a beneficiary of the trust or a co-owner for personal purposes

Enter on line 604 the percentage of the immovable that a beneficiary of the trust or a co-owner, as applicable, used for personal purposes.

611 to 620 Portion of the expenses not attributable to the rental (column B)

Enter, on each of lines 611 through 620 in column B, the amount that corresponds to **the portion of the total expenses related to the personal use** of the immovable by the beneficiary of the trust or by the co-owner, as applicable.

The amount entered may be the same as the result obtained by multiplying the amount of total expenses entered in column A by the percentage on line 604. The amount may also be "0" in certain cases (for example, where the expenses are entirely associated with the rental of the immovable).

663 Capital cost allowance

New capital cost allowance (CCA) rules apply to depreciable property acquired **after November 20, 2018**, that is considered accelerated investment incentive property (AIIP). Changes have also been made to the temporary additional CCA of 60% for property in classes 50 and 53. Moreover, a permanent additional CCA of 30% has been put in place for certain property acquired after December 3, 2018.

Property acquired after **December 3, 2018**, that is qualified intellectual property or general-purpose electronic data processing equipment can, under certain conditions, give entitlement to an accelerated CCA corresponding to the full acquisition cost in the year it became available for use.

Accelerated CCA for qualified intellectual property or general-purpose electronic data processing equipment

A trust can deduct the full acquisition cost of property that is qualified intellectual property or general-purpose electronic data processing equipment for the taxation year in which the property became available for use.

The term "qualified intellectual property" means property acquired after December 3, 2018, that is a patent or a right to use patented information, a licence, a permit, know-how, a commercial secret or other similar property constituting knowledge and that is property included in class 14 of Schedule B to the *Regulation respecting the Taxation Act*, property included in class 44 of that schedule or property that is incorporeal capital property.

To be qualified intellectual property the property must:

- be acquired by the trust in the course of a technology transfer or developed by or on behalf of the trust with a view to enabling it to implement an innovation or invention concerning its business;
- be used within a reasonable time after being acquired or after its development is completed;
- be used only in Québec and primarily in the course of carrying on a business for the period covering the process of implementing the innovation or invention.

General-purpose electronic data processing equipment is property included in class 50 of Schedule B to the *Regulation respecting the Taxation Act*. To qualify for accelerated CCA, it must be used primarily in Québec in the course of carrying on a business, and put into use before 2024.

Property that is not considered qualified intellectual property or that is computer equipment that is AIIP, but that does not meet the above requirements, can qualify for the CCA rules applicable to such property.

Change to and elimination of the additional CCA of 60%

The amounts that a trust can deduct as an additional CCA of 60% for qualified property in calculating its income for the taxation year in which the property becomes available for use and for the following year have been changed. The changes apply to qualified property acquired after November 20, 2018, and before December 4, 2018. The additional CCA of 60% is eliminated as of December 4, 2018.

Introduction of an additional CCA of 30%

A permanent additional CCA of 30% for certain property has been introduced. Consequently, a trust can deduct from its business income for a taxation year an amount corresponding to 30% of the CCA deducted from its income for the previous taxation year with respect to the following property, if the trust acquired the property after December 3, 2018:

- machinery or equipment used in manufacturing or processing, namely property included in class 53 of Schedule B to the *Regulation respecting the Taxation Act*;
- clean energy generation equipment, namely property included in class 43.1 of the schedule or property included in class 43.2 of the schedule;
- general-purpose electronic data processing equipment and systems software for that equipment, namely property included in class 50 of the schedule, other than property that had allowed or could have allowed the taxpayer to claim the additional capital cost allowance of 60%, provided the property is:
  - new at the time of its acquisition,
  - used within a reasonable time after its acquisition,
  - used primarily in Québec in the course of carrying on a business for a period of at least 730 consecutive days after the property's use began;
- qualified intellectual property.

For more information on rates and deductions for other classes of depreciable property, see guide IN-155-V, *Business and Professional Income*.

Instructions for completing the capital cost allowance table

The instructions below can be used to complete both Schedule F and form TP-128.F-V, *Income Earned by a Trust from the Rental of Immovable Property*.

Cost of acquisitions and additions made during the taxation year (column 3)

Enter the cost of acquisitions and additions made to the specified immovable during the taxation year concerned. If property was transferred to the trust by way of an inter vivos gift, enter the FMV of the property at the time of transfer.

In the case of property held in co-ownership, enter the amount that corresponds to the trust's percentage interest in the immovable.

Cost of acquisitions in column 3 that are accelerated investment incentive property (AIIP) (column 3.1)

Use column 3.1 only for AIIP acquired after **November 20, 2018**, that became available for use during the taxation year.

Amount respecting dispositions made during the taxation year (column 4)

For each property of a prescribed class that was disposed of in the taxation year, determine the **lesser** of the following two amounts:

- the proceeds of disposition of the property (after subtracting the expenses incurred for the disposition);
- the capital cost of the property.

In the case of property held in co-ownership, enter the amount that corresponds to the trust's percentage interest in the immovable.

Do the same calculation for all the property of a prescribed class that was disposed of. Add the amounts determined and enter the result in column 4.

See section 5.1.1 for information about the rules that apply to the transfer of property by a personal trust to its beneficiaries.

UCC before a reduction for new property (column 5)

A negative result entered in column 5 corresponds to a recapture of capital cost allowance. If one or more immovables remain in the class at the end of the taxation year, enter "0" in column 10.

A positive result corresponds to a terminal loss if there are no immovables remaining in the class at the end of the taxation year.

Proceeds of dispositions that can reduce the capital cost of AIIP acquired in the taxation year (column 5.1)

Use column 5.1 only for AIIP **acquired after November 20, 2018**, that became available for use during the taxation year.

UCC adjustment based on AIIP acquired in the taxation year (column 5.2)

Use column 5.2 only for AIIP acquired **after November 20, 2018**, that became available for use during the taxation year. See the table below for the variable to be used to calculate the amount in column 5.2 for AIIP available for use **before 2024**.

Class	Variable
14.1 (property that is qualified intellectual property)	19
43.1, 54 or 56	7/3
43.2 or 53	1
44 (property that is qualified intellectual property)	3
50 (property used primarily in Québec)	9/11
55	1.5
14.1 or 44 (property that is **not** qualified intellectual property), 50 (property that is **not** used primarily in Québec) or other class (except classes 12, 13, 14 and 15)	0.5

Note that the straight-line depreciation method is used for property in classes 12, 13, 14 and 15. For those classes, enter the amount of CCA you are claiming directly in column 9.

Reduction (column 6)

Do not make adjustments in column 6 for property acquired from a person with whom the trust was not dealing at arm's length, if the property was depreciable property of the person continuously for at least 364 days immediately before the trust acquired it.

Take into account, in the calculation of the reduction, the amount from column 3.1 for AIIP acquired **after November 20, 2018**, that became available for use during the taxation year.

Base amount for CCA calculation (column 7)

For column 7, take into account the amount from column 5.2 only for AIIP acquired **after November 20, 2018**, that became available for use during the taxation year.

Capital cost allowance (column 9)

Enter in column 9 the amount of capital cost allowance that the trust is deducting. The amount cannot be greater than the result that is obtained when the amount in column 7 is multiplied by the rate in column 8.

For more information about AIIP, see *Business and Professional Income* (IN-155-V).

5.7 Schedule G – *Additional Information: Trust Resident in Québec That Owns a Specified Immovable*

Schedule G is to be completed by a trust that is resident in Québec at the end of its taxation year and that holds a specified immovable, either directly or through a partnership of which it is a member. The information requirements in Part 2 are mandatory for certain trusts for taxation years ending **after December 30, 2023**.

In Part 2, identify the trust's settlors, trustees and beneficiaries and provide information about their relationship to each other. If there is no relationship between a given settlor and a trustee, leave that space blank. You must also provide information about persons who, during the year, can exert control over the trustee's decisions with respect to the allocation of income or capital from the trust under the terms of the trust deed or a related agreement.

In Part 4, enter information about the principal lessee (where the immovable is leased to the principal lessee that, in turn, leases it to others), the manager of the immovable and the person (or firm) in charge of accounting for the immovable.

You must also complete form TP-128.F-V, *Income Earned by a Trust from the Rental of Immovable Property*, and enclose it with the return.

6 GLOSSARY

Accelerated investment incentive property (AIIP)

Property acquired after November 20, 2018, that becomes ready for use before 2028, other than property:

- for which CCA was claimed by any person or partnership, including a trust, for a taxation year ended before the time of its acquisition by the trust;
- that was acquired further to a rollover;
- that has already been the property of the trust or was previously acquired by the trust; or
- that was the property of a person or a partnership (or was acquired by a person or a partnership) with whom the trust was not dealing at arm's length when the person or the partnership owned the property (or when the person or the partnership acquired the property).

Allocate (income of a trust)

To transfer:

- a portion of the trust's income to a beneficiary, because either:
  - the beneficiary is entitled to it, regardless of whether the income is actually paid to the beneficiary, or
  - the income was allocated under the income attribution rule;
- a portion of the trust's accumulating income to a preferred beneficiary, pursuant to an election made jointly by the beneficiary and the trust.

462.9, 467, 663

Arm's-length capital

Property, or property substituted for the property, of a specified individual that is not:

- acquired by the individual as income from, or a taxable capital gain or profit from the disposition of, another property that is derived, directly or indirectly, from a related business in respect of the individual;
- borrowed by the specified individual under a loan or other indebtedness; or
- transferred to the specified individual from a person who was related to the specified individual (other than as a consequence of the death of a person).

Arm's-length transfer

A transfer or loan of property (other than restricted property) that is made at a given time by a person or partnership to another person or partnership, under certain conditions, and that is generally not considered to be a contribution to the trust.

Beneficiary

As applicable, the person:

- for whose benefit a trust is created;
- who is entitled to the amount of an insurance policy or an annuity;
- who holds units, in the case of a mutual fund trust;
- who transfers or loans property to the trust and to whom the income attribution rules apply.

Capital interest

The right of a taxpayer as a beneficiary of a trust, including a right to enforce payment of an amount by the trust, provided the right results from the beneficiary's capital interest in the trust (or unit, in the case of an interest in a mutual fund trust).

683

Capital property

Depreciable property of a prescribed class, or any other property whose sale results in a capital gain or capital loss.

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Connected contributor

A contributor that, at a given time, while resident in Québec, made a contribution to a trust.

Contributor

A person (other than an exempt person but including a person that has ceased to exist) that, directly or through a partnership of which it is a member, makes:

- a contribution to a non-resident trust, by a transfer or loan of property (except an arm's-length transfer); or
- an indirect contribution to a non-resident trust:
  - by a transfer or loan of property (except an arm's-length transfer) as part of a series of transactions, where it is reasonable to consider that the transfer or loan relates to another transfer or loan of property (except an arm's-length transfer) made to the trust by another person or partnership, or
  - by contracting an obligation to make a transfer or loan of property (except an arm's-length transfer), where it is reasonable to consider that the obligation relates to another transfer or loan (except an arm's-length transfer) made to the trust by another person or partnership.

NOTE

- An exempt person is, as a rule, a person exempted from paying income tax.
- A trust that contributes to another trust at a given time is deemed to have made the contribution with each person or partnership that is a contributor to the trust at that time.
- A partnership that contributes to a trust at a given time is deemed to have made the contribution with each person or partnership that is a member of the partnership at that time.

Cost amount

The value of a property, at a given time, that corresponds:

- in the case of depreciable property of a prescribed class, to the result obtained by multiplying the UCC of the property in the class, at that time, by a fraction whose numerator is the capital cost of the property concerned and whose denominator is the capital cost of all the property in the class at that time;
- in the case of capital property that is not depreciable property, to the ACB of the property at that time;
- in the case of property included in the inventory of a taxpayer, to the value of the property at that time.

1

Debts owing to specified non-residents

The total amount of a trust's debts, including any other obligation to pay an amount, that are payable to a specified beneficiary not resident in Canada or to a person not resident in Canada not dealing at arm's length with a specified beneficiary of the trust.

171

Deemed sale

The hypothetical transfer of property by a person, as a result of certain events provided for by law, whereby the person is considered to have actually sold the property.

Deemed sale applicable to certain trusts

The hypothetical sale of property by a trust on a date determined under the *Taxation Act* (as a rule, the 21st anniversary of the creation of the trust or the date on which the spouse for whom the trust was created died, and the same date every 21 years thereafter).

De facto spouse

A person who, at a given time:

- was living in a conjugal relationship with an individual and was the biological or adoptive mother or father (legally or in fact) of a child of whom the individual was also the parent; or
- had been living in a conjugal relationship with an individual for at least 12 consecutive months (the 12-month period is considered to have been uninterrupted if the persons were separated for a period of less than 90 days).

NOTE

A de facto spouse is considered to be the deceased person's surviving spouse only if the two were living in a conjugal relationship immediately before the death.

2.2.1 (2nd par.)

Designate (income)

To accurately identify the source of the income allocated to a beneficiary so that the beneficiary may take advantage of certain provisions of the *Taxation Act*, such as the possibility of claiming a tax deduction or credit for the amount of income designated.

666, 668, 668.1, 669.1, 669.2, 669.5, 671

Determined gross revenue

For a taxation year, the amount by which the aggregate of all amounts received or receivable by the entity in the year exceeds the cost of the property disposed of in the year.

1129.70

Disposition

As a rule, a transaction in which the trust assigns its property for a consideration or without consideration. A disposition includes the sale, donation, distribution or exchange of property and the redemption or cancellation of shares by a corporation.

NOTE

The term "transfer" is sometimes used where the trust and the assignee are not dealing at arm's length.

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Donee

A person who receives a donation or gift (as opposed to a donor).

Electing beneficiary

An individual designated as a beneficiary in the instrument that established the trust who makes a joint election with the trust to consider the trust to be a QDT for the trust's taxation year. For the beneficiary's taxation year during which the trust's taxation year ends, the following conditions must be met:

- The beneficiary suffers from a severe and prolonged impairment in mental or physical functions.
- The impairment is certified by a health professional.
- The beneficiary does not make the joint election with another trust, for a taxation year of a trust ending during the beneficiary's taxation year, to consider that this other trust is a QDT.

Electing contributor

Resident contributor of a deemed resident trust that has elected to include a portion of the trust's income in the calculation of the contributor's income (the income is calculated after the carry-over of any losses from other years).

Eligible funeral arrangement

An arrangement under which contributions are remitted to a custodian (who is resident in Canada at the time the arrangement is made) for the purpose of funding funeral or cemetery services to be provided by a person licensed or otherwise authorized under the laws of a province to provide such services.

979.19

Eligible resale property

Immovable property (other than capital property) of an entity:

- that is contiguous to an immovable property that is capital property or eligible resale property held by the entity or another entity affiliated with the entity; and
- the holding of which is ancillary to the holding of the immovable property.

1129.70

Entity

A corporation, trust or partnership.

1129.70

Equity

As applicable:

- shares of a corporation's capital stock;
- income or capital interest in a trust;
- interest held by the members of a partnership;
- equity-like liabilities; and
- a right to one of the above elements or a right to acquire one of those elements.

1129.70

Equity amount

For a given taxation year, the result of the following calculation (if it is positive):

A – B, where

A is the total of the following amounts:
- the average of the amounts that are equity contributions made to the trust by its specified non-resident beneficiaries before the beginning of each calendar month ending in the year; and
- the tax-paid earnings of the trust;

B is the average of the amounts paid or payable by the trust to its beneficiaries before the beginning of each calendar month ending in the year due to their interest in the trust, unless these amounts are:
- included in the beneficiaries' income as income allocated by the trust;
- subject to income tax under Part XIII of the *Income Tax Act*; or
- paid or payable to beneficiaries other than specified non-resident beneficiaries.

NOTE
- An equity contribution is:
  – a transfer of property to the trust in exchange for an interest in the trust or a right to acquire such an interest; or
  – a gratuitous transfer of property to the trust by a person that holds an interest in the trust.
- The tax-paid earnings of a trust resident in Canada, for a given taxation year, correspond to the taxable income of the trust for the year **minus** the total amount of federal and provincial (Québec or another province in Canada) income tax payable on this income.
- If the trust did not have the information for the period preceding the implementation of the thin capitalization rules in order to do the A – B calculation, it may have made an election with the CRA to have the equity amount as at March 21, 2013, deemed to correspond to the FMV, as at that date, of all of its assets **minus** all of its liabilities. Such an election automatically applies for the purposes of Québec legislation.

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Excluded amount

Amount that is the individual's income for the year from a property or the individual's taxable capital gain or profit for the year from the disposition of a property. The amount must meet the following conditions:
- If the individual has not reached age 24 before the year, the amount is income from a property that the individual inherited from a parent. If the individual inherited the property from another person, the individual must be a full-time student, or be eligible for the disability tax credit, in the year in which the income must be reported.
- The amount is income from a property that was transferred to the individual by his or her spouse or de facto spouse pursuant to a decree, order or judgment of a competent tribunal or pursuant to a written separation agreement if, at that time, the individual and the spouse or de facto spouse were separated and living apart as a result of the breakdown of their marriage or de facto union.
- The amount is a taxable capital gain resulting from the deemed disposition of the individual's capital property immediately before the individual's death.
- The amount is a taxable capital gain (except a capital gain deemed to be a dividend) resulting from the disposition by the individual of property that is, at the time of the disposition, qualified farm or fishing property or qualified small business corporation shares.
- If the individual reached age 17 before the year, the amount is not derived, directly or indirectly, from a related business of the individual or it is derived, directly or indirectly, from an excluded business of the individual.

- If the individual reached age 17 but not age 24 before the year, the amount is either:
  - a safe harbour capital return of the individual; or
  - a reasonable return of the individual, taking into account only the individual's contributions of arm's-length capital.
- If the individual reached age 24 before the year, the income is:
  - income from excluded shares of the individual;
  - a taxable capital gain from the disposition of excluded shares of the individual; or
  - a reasonable return in respect of the individual.

Excluded business

For a given taxation year, the business of a specified individual in which the individual is actively engaged on a regular, continuous and substantial basis during the taxation year or during the five previous taxation years.

NOTE

- The five previous years during which the specified individual must be engaged do not need to be consecutive. In addition, the years can be before the effective date of the measures regarding split income that apply to adult beneficiaries.
- A business may be eligible as an excluded business of a specified individual even if it derives income from another business that is related to the specified individual and is not an excluded business.
- Engagement in the activities of a business during a year is deemed to be active (regular, continuous and substantial) depending on the nature of the individual's engagement in the business and the nature of the business itself. Engagement representing an average of 20 hours of work per week will be deemed active.

Excluded share

A share of the capital stock of a corporation owned by the specified individual if:

- less than 90% of the corporation's business income is from the provision of services;
- the corporation is not a professional corporation (a corporation that carries on the professional practice of an accountant, dentist, lawyer, physician, veterinarian or chiropractor);
- the specified individual holds 10% or more of the FMV of the shares of the capital stock of the corporation and 10% or more of the votes that could be cast at an annual meeting of the shareholders of the corporation; and
- all or substantially all of the corporation's income is not derived, directly or indirectly, from one or more related businesses.

Excluded subsidiary entity

For a given taxation year, an entity the equity of which:

- is not listed or traded on a stock exchange or other public market at any time in the year;
- is held exclusively by a qualified investor, such as:
  - a REIT,
  - a taxable Canadian corporation,
  - a SIFT trust or partnership,
  - a person or partnership that does not own, with respect to the holding of a security of the entity, property the value of which is determined by reference to a security that is listed or traded on a stock exchange or other public market, or
  - an excluded subsidiary entity for the taxation year.

1129.70

Excluded trust

A trust that, throughout a given taxation year, is:

- a GRE;
- a unit trust;
- a mutual fund trust;
- an insurance segregated fund trust;
- a SIFT trust; or
- a tax-exempt trust.

Exempt foreign trust

A non-resident trust that, at a given time in a taxation year, is in **one** of the following situations:

- The trust was created for a non-resident beneficiary who has an impairment and is a dependant.
- The trust was created as a consequence of the breakdown of a marriage or relationship for non-resident children or for the non-resident former spouse.
- The trust is an agency of the United Nations, it owns and administers a prescribed university or it has received donations from the Crown.
- The trust was created exclusively for charitable purposes.
- The trust is managed by a deferred profit-sharing plan (DPSP), a retirement compensation arrangement or a foreign retirement arrangement.
- The trust is administered to provide benefits to employees for qualifying services.
- The trust is administered to provide benefits for services rendered in the de facto resident country of the trust by non-resident natural persons.
- All of the beneficiaries of the trust hold fixed interests and the trust meets certain other conditions.

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Exempt person

A person that is exempted from paying income tax under Part 1 of the *Taxation Act* or one of the following entities:

- Her Majesty in right of Canada or a province;
- a trust resident in Canada or a Canadian corporation established by or arising by reason of a federal or provincial statute, the principal activities of which are to administer, manage or invest the monies of a pension fund or plan established under a federal or provincial statute;
- a trust or corporation established by or arising by reason of a federal or provincial statute with respect to a scheme or program for the compensation of workers injured in an accident in the course of their employment;
- a trust resident in Canada all the beneficiaries of which are exempt persons;
- a Canadian corporation all the shares of which are held by exempt persons;
- a Canadian corporation without capital stock all the property of which is held exclusively for the benefit of exempt persons;
- a partnership all the members of which are exempt persons;
- a mutual fund trust or corporation.

Fair market value (FMV)

The highest dollar value that may be obtained for property on an open market, where the parties to the transaction deal with each other at arm's length and are not obliged to buy or sell.

Fixed interest

Interest, at a given time, of a person as a beneficiary of a trust (but for section 7.11.1 of the *Taxation Act*), provided that no amount of the income or capital of the trust to be distributed at any time in respect of any interest in the trust depends on the exercise by any person of any discretionary power, other than:

- the power that is consistent with normal commercial practice and with the terms that would be acceptable to the beneficiaries of the trust if the beneficiaries were dealing with each other at arm's length;
- the exercise of the power will not materially affect the value of an interest as a beneficiary of the trust relative to the value of other such interests under the trust.

Income attribution rule

The rule that applies where a person (the transferor) transfers or loans property to certain types of trusts. Briefly, the rule provides that the income or loss derived from the transferred or loaned property must be reported by the transferor. The transferor must also report the capital gain or capital loss on any subsequent sale of the property by the trust.

Income interest

A right of a taxpayer as a beneficiary of a personal trust to all or part of the trust's income (whether the right is immediate or future, absolute or contingent), or a right to receive all or part of such income.

> NOTE
> An income interest includes a right to enforce payment of an amount by the trust that arises as a consequence of any such right.

683

Investment fund

Trust that, at a given time, meets the following conditions:

- Throughout the period that begins at the later of March 21, 2013, and the end of the calendar year in which it was created and that ends at the given time, it is a trust holding an outstanding class of units that has been qualified for distribution, or lawfully distributed, to the public as described in paragraph 4801(a) of the *Income Tax Regulations*.
- Throughout the period that begins at the later of March 21, 2013, and the date the trust was created and that ends at the given time, it is a trust that is resident in Canada and meets the following conditions:
  - Its only undertaking is investing its funds in property.
  - It follows a reasonable policy of investment diversification.
  - It does not hold property that is used to carry on a business by the trust or by a person or partnership that is not dealing at arm's length with the trust.
  - It does not hold property that is real or immovable property, Canadian or foreign resource property or an interest or a right in Canadian or foreign resource property.
  - It does not legally control, alone or as a member of a group of persons, a corporation.
  - It does not hold more than 20% of any class of securities of an issuer, unless:
    1) The issuer is an investment fund (or a mutual fund corporation that would be an investment fund if it was a trust); and
    2) The total FMV of the trust's property that is equity of the issuer does not exceed 10% of the issuer's equity value and the total FMV of the trust's property that is liabilities of the issuer does not exceed 10% of the total FMV of all of the issuer's liabilities.

> NOTE
> An investment fund is not considered to carry on a business or a partnership solely because it holds an interest as a member of a partnership.

7.18.1, 21.0.5

Investment in a SIFT wind-up entity

One of the following interests (also called "units"):

- if the SIFT wind-up entity is a trust, a capital interest in the trust;
- if the SIFT wind-up entity is a partnership, an interest as a limited partner of the partnership.

1

Key employee

For a given taxation year of an employer participating in an **employee life and health trust**, any person that was, as applicable:

- a specified employee of the employer during the year (or during a previous taxation year); or
- an employee to whom the employer paid, during two of the previous five taxation years, a salary or wages that exceeded by five times the maximum pensionable earnings for the calendar year, where this income was earned within the meaning of section 40 of the *Act respecting the Québec Pension Plan*.

869.1

Leveraged insurance policy

A life insurance policy (other than an annuity contract) where:

- an amount is or may become:
  - payable under the terms of a borrowing to a person or partnership that has been assigned an interest in the policy or in an investment account in respect of the policy, or
  - payable (and the interest thereon) under a policy loan;
- either:
  - the return credited to an investment account in respect of the policy is determined by reference to the rate of interest on the borrowing or policy loan and would not be credited to the account if the borrowing or policy loan were not in existence, or
  - the maximum amount of an investment account in respect of the policy is determined by reference to the amount of the borrowing or policy loan.

1

Lifetime benefit trust

With respect to the succession of a person, a personal trust:

- of which the beneficiary, immediately before the death of the person, was the person's spouse and had a mental infirmity, or was the person's child or grandchild and was dependent on the person for support because of a mental infirmity; and
- under which:
  - only the beneficiary may receive or otherwise obtain the enjoyment of, during the beneficiary's lifetime, any portion of the trust's income or capital, and
  - the trustees are required to take into account the beneficiary's needs, including the beneficiary's comfort, care and maintenance when paying amounts from the trust.

21.43 (2nd par.)

Liquidator of a succession

An individual or a trust institution designated (or appointed by a court) to administer or liquidate a succession.

Minor

A minor is a person who was **17 years of age or younger on December 31 of the calendar year** in which the income or gain was allocated to him or her.

Non-portfolio earnings

Non-portfolio earnings of a SIFT trust are the total of the following amounts:

- the amount by which its income **exceeds** its losses from either a business it carries on in Canada or non-portfolio property (except for taxable dividends);
- the amount by which the total amount of its taxable capital gains and half of its dividends on capital gains from non-portfolio property **exceeds** its allowable capital losses from the disposition of non-portfolio property.

1129.70

Non-portfolio property

Property held by a SIFT trust at a given time in its taxation year that is:

- a security of a subject entity (other than a portfolio investment entity), if, as applicable:
  - the FMV of all the shares of the entity held by the trust, at that time, exceeds 10% of the equity value of the subject entity, or
  - that FMV, added to the FMV of the other securities held by the trust but issued by entities affiliated with the subject entity, exceeds 50% of the equity value of the trust;
- Canadian immovable or resource property if its FMV exceeds 50% of the equity value of the trust; or
- property that the trust, or a person or partnership with whom the trust does not deal at arm's length, uses in the course of carrying on a business in Canada.

1129.70

Non-resident portion

All property held by a deemed resident trust that is not, at a given time, part of the resident portion of the trust.

Portfolio investment entity

An entity that does not hold non-portfolio property.

1129.70

Proceeds of disposition

See the definition of "selling price."

Preferred beneficiary

An individual resident in Canada who is a beneficiary of a trust at the end of the year and meets one of the two following conditions:

- The beneficiary qualifies for the tax credit for a severe and prolonged impairment in mental or physical functions for the taxation year that ends in the trust's taxation year.
- The beneficiary:
  - is 18 years old before the end of the taxation year and was an individual's dependant during the year because of an impairment in mental or physical functions; and
  - has income for the taxation year (not including income from a preferred beneficiary election) that does not exceed the federal dependent tax credit, in accordance with section 108 of the *Income Tax Act* (federal statute).

The beneficiary must also be:
- the settlor of the trust;
- the spouse or the former spouse of the settlor of the trust; or
- the child, grandchild or great-grandchild of the settlor or the spouse of one of these persons.

658, 752.0.14

Public investment trust

A trust that is, at a given time in its taxation year, a public trust of which all or substantially all of the FMV of the property it holds at that time is related to the following property:
- units of public trusts;
- interests in public partnerships;
- shares of the capital stock of public corporations;
- any combination of the above-mentioned property.

1086R57.1

Public trust

A mutual fund trust of which the units are listed on a designated stock exchange in Canada.

1086R57.1

Qualified farm or fishing property

Property that, at a given time, is owned by a personal trust or by a family farm or fishing partnership of which a personal trust is a member, and that is:
- immovable property (land or a building) or a fishing vessel used mainly in a farming or fishing business in Canada:
  - by a person that is a beneficiary who has a right to receive directly from the trust all or a portion of the trust's income or capital, or the beneficiary's spouse, child or parent, or
  - by a family farm or fishing corporation or a family farm or fishing partnership in which the trust holds a share or interest;
- a share of the capital stock of a family farm or fishing corporation;
- an interest in a family farm or fishing partnership; or
- property included in Class 14.1 used in the course of carrying on a farming or fishing business in Canada by a person or partnership referred to above or by a personal trust from which the individual acquired the property.

> NOTE
>
> As a rule, the property must be held for at least 24 months prior to the given time by the individual (or the individual's spouse, child, or parent) from whom the trust acquired the property or by a family farm or fishing partnership of which the trust holds a share or interest. Furthermore, for the period during which the property (or property substituted for the property) is owned by the individual or partnership in question, the following requirements must be met:
> - the property is used principally in the farming or fishing business in which the trust's beneficiary is actively engaged on a regular and continuous basis and the individual's gross income from the farming or fishing business must exceed that person's income from all other sources; and
> - the property (or property substituted for the property) is used principally in the operation of a business by a family farm or fishing corporation or a family farm or fishing partnership in which the trust holds a share or interest and in which the beneficiary of the trust is actively engaged on a regular and continuous basis.

Qualified intellectual property

Property acquired after December 3, 2018, that is a patent or a right to use patented information, a licence, a permit, know-how, a commercial secret or other similar property constituting knowledge and that:

- is property included in class 14, class 14.1 or class 44;
- is acquired as part of a technology transfer, or is developed by or on behalf of the taxpayer to enable the taxpayer to implement an innovation or invention concerning the taxpayer's business;
- is used within a reasonable time after being acquired or after its development is completed;
- is used only in Québec and primarily in the course of carrying on a business for the period covering the process of implementing the innovation or invention;
- is not acquired by a person or a partnership with whom the purchaser is not dealing at arm's length.

Qualified property

Property that is held by a REIT, and that constitutes non-portfolio property. It must be one of the following types of property:

- immovable property that is capital property, eligible resale property, indebtedness of a Canadian corporation represented by a bankers' acceptance, money and debt obligations or a deposit with a savings and credit union;
- a security of a subject entity, if:
  - the entity derives 90% of its determined gross revenue from maintaining, improving, leasing or managing immovable properties of the trust, or
  - the entity holds no property other than titles of ownership in immovable properties that the trust holds solely or in co-ownership;
- property that is ancillary to the activity of the trust and that consists in the trust earning:
  - rent from immovable properties;
  - capital gains from dispositions of immovable properties, other than a share of a taxable Canadian corporation, a capital or income interest in a SIFT trust, an interest in a SIFT partnership or a capital or income interest in a REIT.

1129.70

Qualified small business corporation share (QSBCS)

A share that:

- at the time of sale, was a share of the capital stock of a small business corporation and was owned by the trust or by a partnership related to the trust;
- throughout the 24-month period preceding the sale, was owned only by the trust or by a person or partnership related to the trust;
- throughout the same period, was a share of the capital stock of a Canadian-controlled private corporation (CCPC) of which more than 50% of the FMV of the assets was composed of:
  - assets used principally in an eligible business actively carried on primarily in Canada by the CCPC or by a corporation related to the CCPC,
  - certain shares or debts of related corporations, or
  - a combination of the previous two categories.

726.6.1

NOTE

A small business corporation is a CCPC in which all or substantially all of the fair market value of its assets consists of:

- assets used mainly in an active eligible business carried on primarily in Canada by the CCPC or by a related corporation;
- certain shares or certain debts of small business corporations; or
- a combination of the two above-mentioned types of assets.

To be related to a trust, a person or partnership must be:

- a beneficiary of the trust;
- a partnership of which the trust is a member; or
- the person from whom the trust purchased the shares, and who was related to all the beneficiaries of the trust at the time it disposed of the shares.

Real estate investment trust (REIT)

For a given taxation year, a trust that is resident in Canada throughout the year, if:

- the FMV of all non-portfolio property that is qualified property held by the trust is at least equal to 90% of the FMV of all non-portfolio property held by the trust;
- at least 90% of the trust's determined gross revenue for the year is derived from rent from immovable property, interest, dispositions of immovable property that is capital property, dividends or royalties, or from dispositions of eligible resale property;
- at least 75% of the trust's determined gross revenue for the year is derived from rent from immovable property, interest payable on debts secured by hypothecs on immovable property, or from dispositions of immovable property that is capital property;
- the total FMV of certain property (immovable property that is capital property, sums of money, bankers' acceptances, deposits with a credit union or eligible resale property) that the trust holds throughout the year must not be less than 75% of the equity value of the trust at that time; and
- the investments in the trust are listed or traded on a stock exchange or other public market.

1129.70

Reasonable return

Amount derived, directly or indirectly, from a related business in respect of the specified individual in a given taxation year that:

- meets the definition of "split income" in respect of the specified individual for the year, except for the following two conditions given in the definition of "excluded amount":
  - if the individual reached age 17 but not age 24 before the year, the amount is a reasonable return in respect of the individual, taking into account only the individual's contributions of arm's-length capital,
  - if the individual reached age 24 before the year, the amount is a reasonable return in respect of the individual;
- is reasonable given the following factors relating to the contributions of the specified individual with respect to the business and those of each source individual:
  - the work performed for the business,
  - the property contributed, directly or indirectly, to the business,
  - the risks assumed in respect of the related business,
  - the total of the amounts paid or payable, directly or indirectly, by any person or partnership to, or for the benefit of, the specified individual or a source individual in respect of the related business, and
  - any other relevant factors.

Related business

As the case may be:

- a business carried on, at any time in the year, by a source individual in respect of the specified individual or by a partnership, a corporation or a trust, if the source individual is actively engaged on a regular basis in the activities of the business;
- a business of a partnership if a source individual in respect of the specified individual has an interest in the partnership, whether directly or indirectly through one or more partnerships;
- a business of a corporation, if a source individual in respect of the specified individual holds shares of the capital stock of the corporation or property that derives, directly or indirectly, all or part of its FMV from shares of the capital stock of the corporation, and the total FMV of the shares or the property is 10% or more of the total FMV of the capital stock of the corporation.

Related individuals

Individuals who are not dealing with each other at arm's length, that is, individuals who are related by blood, marriage, a de facto union or adoption.

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Resident beneficiary

A person, other than a successor beneficiary or an exempt person, that is resident in Canada and that is the beneficiary of a trust at a given time where the trust has a connected contributor.

Resident contributor

A person who, at a given time, is resident in Canada and is a contributor to a trust.

Resident portion

All of a deemed resident trust's property that is, at a given time:

- property contributed to the trust by a contributor that is a resident contributor at that time, or by a connected contributor, if the trust has a resident beneficiary at that time;
- property that is acquired, no later than at the given time, by a debt contracted by the trust, if:
  - all or part of the debt is secured by property that is included in the trust's resident portion,
  - at the time the debt was contracted, it is reasonable to conclude that the debt will be repaid, at some time, with property included in the trust's resident portion,
  - a person resident in Québec or a partnership of which a person resident in Québec is a member has an obligation, either absolute or contingent, to effect any undertaking (including a guarantee, covenant or agreement) to ensure the repayment, in whole or in part, of the debt, or has provided any other financial assistance in respect of the debt.

Restricted property

Property held by a person or a partnership, such as:

- a share of the capital stock of a closely held corporation (including a right to acquire a share or property substituted for such a share or right), if the share or right was acquired by the person or partnership as part of a transaction or series of transactions under which a specified share of the capital stock of a closely held corporation was acquired:
  - by any person or partnership in exchange for or upon the conversion of a property,
  - for a cost that was less than its FMV at the time of the acquisition;
- a debt or other obligation of a closely held corporation (including a right to acquire a debt or other obligation), if the debt or obligation (or right), or a property that is substituted for such a debt or obligation, became the property of the person or partnership as a part of a transaction or series of transactions under which a specified share of the capital stock of a closely held corporation was acquired:
  - by any person or partnership in exchange for or upon the conversion of a property,
  - for a cost that was less than its FMV at the time of the acquisition.

NOTE

If restricted property is contributed to the trust at a given time, the value of the contribution is deemed to be the **greater** of the following amounts:

- the value of the contribution at that time; and
- the highest FMV of the restricted property, or of property substituted for such property, for the period that begins immediately after that time and ends at the end of the third calendar year that ends after that time.

Rollover rule

A rule stipulating that, in certain cases, the transfer or sale of property has no immediate tax incidence, or that the tax incidence depends on the amount determined as selling price for the transferor.

NOTE

In this guide, the rollover rule applies to transactions made **in favour of a trust** or made **by a personal trust** in favour of a beneficiary in settlement of the beneficiary's capital interest in the trust.

Safe harbour capital return

Return obtained by a specified individual for a taxation year that does not exceed the result of $A \times B$, where:

A is the **highest rate** of interest prescribed for a given quarter of the year;

B is the total of the amounts obtained by the formula $C \times D \div E$, where:

- C is the FMV of property contributed by the specified individual to a related business at the time of the contribution,
- D is the number of days in the year that the property (or property substituted for the property) is used in support of the activities of the related business and has not, directly or indirectly, in any manner whatever, been returned to the specified individual, and
- E is the number of days in the year.

Selling price (or proceeds of disposition)

Consideration received or deemed received on the sale of property.

NOTE

As a rule, the consideration deemed received corresponds to the FMV of the property at the time of the deemed sale, or at the time of its transfer between persons not dealing with each other at arm's length if the property is transferred for no consideration or for a consideration less than its FMV.

Settlor (of a trust)

An individual who creates a trust by transferring property from his or her own patrimony to the patrimony of the trust, or an individual whose death results in the opening of a succession or the creation by will of a trust.

SIFT trust wind-up event

The distribution of property **before 2013** by a trust in favour of a taxpayer as consideration for the taxpayer's interest in the trust as a beneficiary, if the following conditions are met:

- The trust is:
  - a SIFT wind-up entity,
  - a trust whose sole beneficiary throughout the period beginning on July 14, 2008, and ending at the time of the distribution is another trust that is generally, throughout the same period, a SIFT wind-up entity, or
  - a trust whose sole beneficiary at the time of distribution is another trust if, throughout the period beginning on July 14, 2008, and ending at the time of the distribution, the sole beneficiary is both one of the above-mentioned trusts and a **majority-interest beneficiary** (see the definition in section 3.3, replacing "50%" by "25%").
- The trust ceases to exist:
  - immediately after the distribution, or
  - immediately after the last of a series of distributions, in the case of a series of SIFT trust wind-up events.
- The property distributed was not acquired by the trust as a result of certain transactions to which the rollover rule applies. For example, an acquisition that occurred after February 2, 2009, by any person other than a SIFT wind-up entity in the case of a qualifying disposition (see section 3.1.2), or of a qualifying exchange resulting from the reorganization of investment institutions.

1

SIFT wind-up corporation

A corporation that, in respect of a SIFT wind-up entity, meets one of the following conditions at a given time:

- The corporation is the sole beneficiary of the SIFT wind-up entity after July 13, 2008, and before the given time (or before January 1, 2013, whichever is earlier).
- The shares of the corporation's capital stock are distributed by the SIFT wind-up entity at or before the given time as part of a SIFT trust wind-up event.

SIFT wind-up entity

An entity that, during the period beginning on October 31, 2006, and ending on July 14, 2008, is:

- a SIFT trust;
- a SIFT partnership;
- a REIT.

1

Source individual

Individual (other than a trust) who, at any time in the year, is resident in Canada and is related to the specified individual.

Specified beneficiary

A person who holds an interest as a beneficiary of the trust, either alone or with other persons not dealing at arm's length with that person. The FMV of the interest must be equal to at least 25% of the FMV of the interests of all of the trust's beneficiaries.

> NOTE
> A person is deemed to hold an interest as a beneficiary of the trust if that person or a person not dealing at arm's length with the person has a right, whether immediate or future, and whether absolute or contingent, to obtain or acquire an interest as a beneficiary of the trust.

Specified immovable

An immovable (including a right in such an immovable or an option on such an immovable) located in Québec that is used mainly to earn gross revenue that constitutes rent.

Specified individual

An individual who:

- was resident in Canada at the end of the taxation year or, if the individual died in the year, was resident in Canada immediately before his or her death;
- did not reach age 18 before the end of the year and has a parent resident in Canada at any time in the year.

Specified trust

For a given taxation year, an inter vivos trust that was not resident in Canada at any time during that year and that was not tax-exempt.

1129.77

Split income

An amount that a trust allocates to a specified individual and that is taxable at the highest marginal rate. Such amounts consist of the following income and capital gains:

- taxable dividends or benefits that the trust receives from a Canadian or foreign private corporation;
- the income that can be reasonably deemed to be derived, directly or indirectly, from:
  - one or more related businesses in respect of the individual in the year,
  - the rental of property, if the person related to the specified individual is actively engaged on a regular basis in the activity of the trust related to the rental of property;
- a capital gain realized on the disposition of shares in favour of a person not dealing at arm's length with a minor, where the minor is subject to tax on split income in respect of dividends paid on the shares (this capital gain is deemed a taxable dividend other than an eligible dividend);
- the amount that is related to a debt obligation of the trust, if the trust is not a mutual fund trust, except for:
  - certain government debt obligations or debt obligations that are guaranteed by the government,
  - a debt obligation that is listed or traded on a public market,
  - a deposit standing to the individual's credit with a branch, located in Canada, of a bank or credit union;

- the amount related to a property if:
  - it is a taxable capital gain or a profit derived from the disposition of the property after 2017 and allocated by a trust, and it is not otherwise included in the split income if the income derived from the property is split income for the specified individual,
  - the property is shares of a corporation (except shares of a class listed on a stock exchange or shares of the capital stock of a mutual fund corporation), a debt obligation (which is not listed or traded on a public market and is not a deposit standing to the individual's credit) or interest in a partnership or a trust (except a mutual fund trust or a trust that is deemed to be in existence by a congregation). If the property is not a share of a corporation, one of the following conditions must be met:
    - the amount is included in the individual's split income for the year or a previous year,
    - all or part of the FMV immediately before the disposition is attributable to a share of a corporation (except a share of a corporation listed on a stock market or a share of a mutual fund corporation).

766.3.3

Spouse
The person to whom an individual is married or with whom the individual has contracted a civil union, or who is the individual's de facto spouse.

2.2.1

Stapled securities
A combination of two or more securities to which the following conditions apply:

- the securities are required to be transferred together, as one security is the other security's reference security;
- one or more of the securities is listed or traded on a stock exchange or other public market;
- the securities are issued:
  - by a single entity that is a corporation, a SIFT partnership or a SIFT trust,
  - by separate entities, where one entity is a subsidiary of the other, and one entity is a corporation, a SIFT partnership or a SIFT trust, or
  - separate entities, one of which is a REIT or a subsidiary of a REIT.

158.16

Subject entity
A corporation, trust or partnership resident in Canada, or a person or partnership not resident in Canada but the principal source of income of which is one or more sources in Canada.

1129.77

Subsidiary (of a given entity)
An entity:

- in which a given entity holds securities that have a total FMV that is greater than 10% of the equity value of the entity; and
- that is a subsidiary of an entity that is a subsidiary of a given entity.

158.16

Successor beneficiary
Beneficiary who will be entitled to receive all or a portion of the trust's income or capital further to the death of another beneficiary who is either a contributor or a person related to the contributor.

Tax-liable taxpayer

A person who is, at a given time during a taxation year:

- a resident contributor, a resident beneficiary or an electing contributor of the trust or a joint contributor who made a contribution to the trust (that is, either a person, other than a corporation, that is resident in Québec at the end of the taxation year or a corporation that has an establishment in Québec during the taxation year); or
- a connected contributor of the trust who is either a person (other than a corporation) who made a contribution to the trust and was resident in Québec at a time prior to the given time or a corporation that made a contribution to the trust and had an establishment in Québec at a time prior to the given time.

Testator

A person who made a valid will, and left such a will upon his or her death.

Trust

An entity that results from an act (an onerous or gratuitous contract, or a will), whereby a person transfers property from his or her patrimony to another patrimony that he or she constitutes; the property is appropriated for a particular purpose, and a trustee undertakes to hold and administer it.

NOTE
In certain cases, a trust is created by law. A trust may also be created by a judgment, if this is authorized by law.

Trustee

An individual or a trust institution that holds legal title to property on behalf of the beneficiaries of a trust. Also, a legal representative, a liquidator of a succession, an administrator, a mandatary or a receiver (sequestrator) that owns or controls property on behalf of another person.

Upkeep expenses

Expenses incurred for the maintenance and improvement of immovable property.

Will

A unilateral and revocable juridical act, drawn up in one of the forms provided for by law, which declares the intentions of the testator respecting the disposition and administration of his or her property after death.

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Monday to Friday: 8:30 a.m. to 4:30 p.m.

Québec City	**Montréal**	**Elsewhere**
418 659-6299	514 864-6299	1 800 267-6299 (toll-free)

Businesses, employers and agents for consumption taxes

Monday, Tuesday, Thursday and Friday: 8:30 a.m. to 4:30 p.m.
Wednesday: 10:00 a.m. to 4:30 p.m.

Québec City	**Montréal**	**Elsewhere**
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Montréal, Laval, Laurentides, Lanaudière and Montérégie

Direction principale des relations
avec la clientèle des particuliers

Revenu Québec
C. P. 3000, succursale Place-Desjardins
Montréal (Québec) H5B 1A4

Québec City and other regions

Direction principale des relations
avec la clientèle des particuliers

Revenu Québec
3800, rue de Marly
Québec (Québec) G1X 4A5

Businesses, employers and agents for consumption taxes

Montréal, Laval, Laurentides, Lanaudière, Montérégie, Estrie and Outaouais

Direction principale des relations
avec la clientèle des entreprises

Revenu Québec
C. P. 3000, succursale Place-Desjardins
Montréal (Québec) H5B 1A4

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Québec (Québec) G1X 4A5

Cette publication est également disponible en français et s'intitule *Guide de la déclaration de revenus des fiducies* (TP-646.G).

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