

## NEW TRUST REPORTING REQUIREMENTS

The federal 2018 budget announced new trust filing and reporting requirements that will impact trusts having a taxation year ending on and after December 31, 2021.

### NEW FILING REQUIREMENTS

A trust is currently only required to file an income tax return for taxation years in which the trust owes tax or disposes of property. As of the 2021 taxation year, most trusts will be required to file income tax returns for every taxation year.

Please note that family trusts set up in the context of an estate freeze will have to comply with the new filing requirements.

Please review your corporate structures in order to identify the trusts that are affected by these new measures.

### NEW REPORTING REQUIREMENTS

The new trust reporting rules are of a wide application.

With limited exceptions, they will require every Canadian resident trust, and certain non-resident trusts, to disclose personal information about their settlors, trustees, beneficiaries and influencers every year when filing their trust income tax return, starting with the taxation years ending on December 31, 2021.

- The information required for each settlor, trustee, beneficiary and influencer is their name, address, birth date (for individuals), jurisdiction of residence and TIN (Tax Identification Number). TIN means the Social Insurance Number for individuals, the Trust Account Number for trusts and the Business Number for corporations.
- The definition of a settlor for these purposes is very broad and will include any person who has made a loan or transfer of property to a trust, with the narrow exception of a loan at a reasonable rate of interest or a transfer made at fair market value consideration by a person who deals at arm's length with the trust.

- Beneficiaries for reporting purposes include current beneficiaries but also future, contingent or discretionary beneficiaries.

An influencer refers to anyone having influence over allocations of trust income and capital and therefore may include what is commonly referred to as protectors.

## **PENALTIES FOR NON-COMPLIANCE**

Failure to file the required information discussed above will result in a penalty of \$25 per day, with a minimum penalty of \$100, to a maximum of \$2,500.

Additionally, if it is deemed that the failure to file was made knowingly or because of gross negligence, there will be an additional penalty equal to the greater of \$2,500 and 5% of the fair market value of all the property held by the trust.