BARE TRUST REPORTING: It's Here!

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

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

Does a bare trust arrangement exist?

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

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

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

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

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

Individual Reasons

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

Estate Planning Reasons

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

Business Administration Reasons

- a **corporate bank account** is **opened by the shareholders,** with the corporation being the beneficial owner of the funds;
- a **corporation** is on **title** of an **individual's real estate, vehicle** or **other asset**, and vice-versa;
- assets **registered to one corporation** but are beneficially **owned by a related corporation**;
- use of a **nominee corporation** for real estate development purposes;
- a **partner of a partnership** holding a **bank account or asset** for the benefit of all the other partners of a partnership;
- a **joint venture** arrangement where the operator holds legal title to development property as an agent for the benefit of other participants;
- a **cost-sharing arrangement** where a person holds a business bank account, or other assets, to facilitate the arrangement while having no, or only partial, beneficial interest in these shared assets;

Industry-specific Issues

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

If you have any questions, give us a call!

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