

INFORMATION RETURN IN RESPECT OF TRANSFERS OR LOANS TO A NON-RESIDENT TRUST

Do not use this area

- Complete this form if you or your controlled foreign affiliate has transferred or loaned property to a specified foreign trust or a non-resident corporation controlled by the trust.
- Give all amounts in Canadian dollars.
- You have to file a separate return for each non-resident trust.
- Attach a separate sheet if you need more space.

Part I – Identification
Section 1 – Reporting taxpayer

Tick a box to indicate who you are reporting for, and complete the areas that apply.

<input type="checkbox"/> individual	First name	Last name	Initial	Social insurance number
<input type="checkbox"/> corporation	Corporation's name	Business number		
<input type="checkbox"/> trust	Trust's name	Account number		

Reporting taxpayer's address

No. Street

City Province or territory Postal code

Section 2 – Reporting period

Is this the first year that you have filed this return for this trust? Yes No

If no, does the reporting period for this year begin and end on the same dates as last year? Yes No

If no, why has the reporting period changed? _____

To which reporting period does this return apply?

From Day Month Year To Day Month Year

Section 3 – Non-resident trust information

Name of trust	Trustee(s)		
	Name	Address	Telephone ()
	Name	Address	Telephone ()
	Name	Address	Telephone ()

Trust's country of residence at the end of the reporting period Under the laws of which country is the trust governed?

Person with whom a trustee has to consult before the trustee can exercise any discretionary powers
 Name: Address:

Persons who have any powers relating to the trust, including:
 • the power to change the governing law or situs of the trust;
 • the power to veto distributions of capital or income; and
 • the power to remove existing trustees and appoint new ones.
 Name: Address:
 Name: Address:

Attach the following documents to this return:
 • If this is the first year, attach a copy of the trust documents, including terms of the trust, memorandum of wishes, and any change to the original trust documents.
 • If this form was filed before, attach a copy of any trust documents that have been changed or created since the previous reporting period.
 • If the trust prepares financial statements, attach a copy of the financial statements for the reporting period.
 If the original documents are not written in English or French, they must be translated into English or French if requested by Canada Customs and Revenue Agency.

Section 4 – Settlor(s) of the trust

Name	Address

Section 5 – Specified beneficiaries of the trust

Name	Address

Part II – Transactions

Section 1 – Reporting requirements

Was a transfer or loan to the trust that gave rise to an obligation to file this return made before 1991? Yes No

If yes, indicate the first year there was a transfer or loan 19 ____

- Report only transactions that occurred after 1990 in Sections 2 and 3 below.
- In Sections 2 and 3 below, include only transactions that were not reported on other T1141 forms.

Section 2 – Transfers and loans before the end of the reporting period to the trust and each non-resident corporation that the trust controlled

Name and address of transferor or creditor	Description of property transferred or loaned	Year of transfer or loan	Amount
			00
			00
			00
Total			11 00

Section 3 – Distributions before the end of the reporting period from the trust

Name and address of recipient	Description of property distributed	Year of distribution	Amount
			00
			00
			00
Total			21 00

Section 4 – Non-arm's-length persons indebted to the trust at the end of the reporting period

Name and address of non-arm's length person	Description of indebtedness	Amount
		00
		00
		00
Total		31 00

Section 5 – Persons to whom the trust or a non-resident corporation that the trust controlled is indebted at the end of the reporting period

Name and address of person	Description of indebtedness	Amount
		00
		00
		00
Total		41 00

Section 6 – Disclosure

Is any information requested on this return not available? Yes No

If yes, please specify the information and the reason it is not available. Also, indicate the steps taken in attempting to obtain the information.

Certification

<p>I certify that the information given on this return and in any documents attached is, to my knowledge, correct and complete, except as disclosed in Section 6.</p> <p>Print name _____</p> <p>Sign here _____</p> <p>It is a serious offence to file a false return.</p> <p>_____</p> <p style="text-align: right;">Position or title</p> <p>Telephone () _____ Date _____</p>	<p>Person or firm paid to prepare this return.</p> <p>Name _____</p> <p>Address _____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Postal code _____</p> <p>Telephone () _____</p>
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All legislative references on this sheet refer to the *Income Tax Act* (the Act).

Do you have to file this return?

Form T1141, *Information Return in Respect of Transfers or Loans to a Non-resident Trust*, must be filed by a person, (the "transferor"), who is resident in Canada at the end of the trust's tax year and who has, at any time before the end of the trust's tax year, made a transfer or loan to:

- a trust that was a specified foreign trust at any time in the trust's tax year; or
- a corporation that, at the time of the transfer or loan, would have been a controlled foreign affiliate of the specified foreign trust if the trust had been resident in Canada,

and there is a "non-arm's length indicator".

A person resident in Canada at the end of the trust's tax year must also file Form T1141 where the transfer or loan was made by a corporation that would have been a controlled foreign affiliate if the person had been resident in Canada at the time of the transfer or loan by the corporation.

As an individual (other than a trust) you do **not** have to file this return for the year in which you first become a resident of Canada.

What is a specified foreign trust?

A specified foreign trust is a non-resident trust (which is not an exempt trust, described below) that satisfies **any** of the following conditions:

1. There is a specified beneficiary under the trust who is:
 - a resident of Canada;
 - a corporation or trust with which a person resident in Canada does not deal at arm's length; or
 - a controlled foreign affiliate of a person resident in Canada.
2. The terms of the trust permit persons (other than certain persons who are not specified beneficiaries) to be added as beneficiaries because of the exercise of any discretion by any person or partnership, and who are not beneficially interested in the trust at that time.
3. The terms of the trust allow property to be distributed to another trust that, immediately after the receipt of the distribution, can reasonably be expected to be a specified foreign trust.

A specified beneficiary is a person beneficially interested in the trust who is not a:

- mutual fund corporation;
- non-resident-owned investment corporation;
- person exempt from tax under Part I of the Act;
- mutual fund trust;
- trust described in any of paragraphs (a) to (e.1) of the definition "trust" in subsection 108(1) of the Act;
- "registered investment" under section 204.4 of the Act;
- trust in which all persons beneficially interested are persons described above;
- person beneficially interested in the trust solely because that person is beneficially interested in an "exempt trust" or beneficially interested in a trust that is exempt from tax under Part I of the Act, a mutual fund trust or a trust described in any of paragraphs (a) to (e.1) of the definition "trust" in subsection 108(1) of the Act; or
- a person beneficially interested in a trust only because of a right that is subject to a contingency, where at that time the identity of the person as a person beneficially interested in the trust is impossible to determine.

Note: A person described above may be a specified beneficiary. This is the case if the person is beneficially interested in a trust where it is reasonable to consider that the person became beneficially interested in the trust as part of a transaction or event, or series of transactions or events, one of the purposes of which is to limit the reporting for the trust.

What is a non-arm's length indicator?

A non-arm's length indicator generally occurs when **any** of the following conditions apply:

- the transferor is:
 - a specified beneficiary under the trust or related (within the meaning of section 251 of the Act) to a specified beneficiary under the trust;
 - an uncle, aunt, nephew or niece of a specified beneficiary under the trust; or
 - a trust or corporation that had previously acquired directly or indirectly the transferred property from any of the above persons;

- the transferor receives consideration that is less than the fair market value of the transferred property, including any debt which does not bear a reasonable rate of interest or a debt the interest payable on which at the end of the calendar year remains unpaid 180 days after the end of the calendar year or is repaid within the 180 days but the repayment is part of a series of loans or other transactions and repayments;
- the property transferred is a share of the capital stock of a corporation that is related to a specified beneficiary of the trust or an interest in another trust that is related to a specified beneficiary of the trust;
- the loan made to the trust does not bear a reasonable rate of interest or the interest payable on the loan at the end of a calendar year remains unpaid 180 days after the end of the calendar year or is repaid within the 180 days but the repayment is part of a series of loans or other transactions and repayments; or
- the transfer or loan was made as part of a series of transactions or events one of the purposes of which was to avoid the application of a non-arm's length indicator.

A non-arm's length indicator is not required to create an obligation to file Form T1141 where the trust is a specified foreign trust as a result of the terms of the trust permitting beneficiaries to be added as in (2) above, or allowing property to be distributed as in (3) above.

What trusts are exempt?

You do not have to file this return for transfers or loans to the following types of trusts:

- a trust governed by a U.S. Individual Retirement Account (IRA);
- a non-resident trust principally providing superannuation, pension, retirement or employee benefits primarily to non-resident beneficiaries, that does not pay income tax in the taxing jurisdiction where it is resident; and
- a trust governed by a foreign mutual fund, provided it complies with the following prescribed conditions:
 - there are at least 150 beneficiaries who are beneficiaries in respect of the same class of units of the trust; and
 - 150 or more of those beneficiaries each hold at least one "block of units" of that class (as defined in Part XLVIII of the Regulations to the Act), and units of that class having a total fair market value of at least \$500.

Partnerships

If the transfer or loan is made by a partnership, the property is deemed to have been transferred or lent by the members of the partnership. As a result, each member of the partnership is required to file Form T1141 for property transferred or lent to the trust. However, the partners are able to elect for joint filing of the return (see the section below on joint filing).

What transfers or loans do you have to report?

You have to report any loan or transfer that was made prior to the end of the trust's tax year. Also, you have to indicate if the transfer or loan was made before 1991 or after 1990.

If the transfer or loan was made before 1991, the information required is limited to disclosure of the transfer or loan and the date of the earliest transfer or loan. If the transfer or loan was made after 1990, additional details will be required.

You must report transfers or loans made to the trust while you were a non-resident if you are a resident at the end of the trust's tax year, subject to the exclusions mentioned above with respect to pre-1991 transfers or loans.

Joint filing

Where two persons are otherwise required to file Form T1141 for a non-resident trust, one of the persons can elect in writing to have the other person file the return on his or her behalf. However, if the person so designated does not file the return or files a return containing false statements or omissions, the person electing may be liable to any penalty that may result as though that person had failed to file the return or had made the false statement or omission.

Due dates for filing this return

The reporting requirements for transfers or loans to a non-resident trust apply to trust tax years that begin after 1995. Form T1141 for a tax year of a trust that ends in your tax year, must be filed on or before the due date of your income tax return, except where the tax year of the trust ends in 1996, 1997 or 1998.

Where the trust's tax year ends in 1996, 1997 or 1998, Form T1141 is required to be filed on or before the later of:

- April 30, 1998; or
- the day on or before which the return is otherwise required to be filed.

Individuals – Your due date is April 30 of the following year, or June 15 of the following year if you or your spouse carried on a business in the year.

If the individual dies in the year, the due date is the individual's usual one, or six months after the day of death, whichever is later.

Corporations – You have to file six months from the end of your fiscal year.

Trusts – You have to file 90 days from the end of the reporting trust's tax year.

Joint filing – You have to file on or before the latest day on which the return would have been due if not for the joint filing.

Example

A Co., a resident corporation, transferred property to a specified foreign trust on December 1, 1998. A Co. has a tax year that ends October 31, 1998. The trust has a tax year that ends December 31, 1998.

Since Form T1141 is filed for the trust's tax year that ends in A Co.'s tax year, A Co. should report the transfer of December 1, 1998 on the T1141 return filed for its 1999 tax year. This is because the transfer occurred after the end of the trust's tax year that ended in A Co.'s 1998 tax year (i.e., the transfer occurred in the trust's tax year that ended on December 31, 1998 but in A Co.'s tax year that ends in 1999).

Foreign currency conversion

When converting amounts into Canadian dollars from a foreign currency, you should use the exchange rate in effect at the time of the transaction. If transactions occur throughout the year, you can use an average rate for the year.

If you have to provide an amount at the end of a reporting period, determine the Canadian dollar equivalent using the exchange rate in effect at that time.

More information

If you need more information, you can write, phone or visit your local tax services office. The address and telephone numbers are listed under "Canada Customs and Revenue Agency" in the Government of Canada section of your telephone book.

How to complete this return

All amounts should be expressed in Canadian dollars and rounded to the nearest dollar.

Part I – Identification

Section 1 – Reporting taxpayer

Use section 1 of Form T1141 to identify the reporting taxpayer.

Section 2 – Reporting period

Use section 2 to identify the reporting period to which the return relates. The reporting period is the tax year of the non-resident trust.

Section 3 – Non-resident trust information

Use section 3 to provide information about the non-resident trust.

Section 4 – Settlor(s) of the trust

Use section 4 to provide the name and address of each settlor of the trust.

Section 5 – Specified beneficiaries of the trust

Use section 5 to provide the name and address of each specified beneficiary of the trust.

Part II – Transactions

Section 1 – Reporting requirements

If the property transferred, lent or distributed is funds (e.g., money, negotiable instruments) use the amount of funds transferred, lent or distributed. Where property is other than funds, the fair market value of the property at the time of the transfer, loan or distribution should be used.

Estimating fair market value

For purposes of completing Form T1141, there is no requirement to obtain a formal appraisal of the property. An estimate of the fair market value is sufficient. The following sections will help you estimate the fair market value of certain properties.

Securities

The fair market value of publicly traded shares may be obtained from public listings of transactions on recognized stock exchanges, investment publications or from a broker or investment dealer.

For securities in a privately owned business, information may be obtained from a person who is familiar with the business such as an accountant or business valuator.

For more information, see Information Circular 89-3, *Policy Statement on Business Equity Valuations*.

Listed personal property and other personal-use-property

The fair market value of these properties may be estimated by consulting with art, coin, jewellery, antique and stamp dealers. You can also refer to catalogues for the value of these objects.

Real estate

The fair market value of real estate may be estimated by collecting information on sales of similar properties in the same area around the date which you received the property. This information can be obtained from real estate pamphlets, which provide asking prices. If possible you should determine if the property sold and what the actual sale price was. You can also use newspapers which provide the asking price or land-registry or land-title offices.

To support your valuation, you should keep documents containing the following information:

- a brief description of the property, including location, lot, building size and date and type of construction;
- the cost and date of acquisition;
- the cost of any additions or improvements;
- the property assessment for municipal tax purposes; and
- insurance coverage.

Section 2 – Transfers and loans before the end of the reporting period to the trust and each non-resident corporation that the trust controlled

The information in section 2 should be provided for each transfer or loan that was made before the end of the trust's tax year to the non-resident trust, or to a non-resident corporation that would be a controlled foreign affiliate if the trust had been a resident of Canada.

Section 3 – Distributions before the end of the reporting period from the trust

The information in section 3 should be provided for each distribution that was made from the non-resident trust before the end of the trust's tax year.

Section 4 – Non-arm's-length persons indebted to the trust at the end of the reporting period

The information in section 4 should be provided for each non-arm's-length person that was indebted to the non-resident trust at the end of the trust's tax year.

Section 5 – Persons to whom the trust or a non-resident corporation that the trust controlled is indebted at the end of the reporting period

The information in section 5 should be provided for each person to whom the non-resident trust is indebted or to whom a non-resident corporation that would be a controlled foreign affiliate if the trust had been resident in Canada is indebted at the end of the trust's tax year.

Section 6 – Disclosure

Section 6 is used to indicate whether any information requested in Form T1141 is not available at the time of filing this return.

If information is not available, specify what information is not available and why it is not available. Also indicate what steps were taken in attempting to obtain the information.

Due diligence exception

The information required to be filed on Form T1141 does not include information that is not available, on the day that the return is filed, to the person required to file the return where:

- (a) there is reasonable disclosure in the return of the unavailability of the information;
- (b) before that day, the person exercised due diligence in attempting to obtain the information;
- (c) it was reasonable to expect, at the time of each transaction, if any, entered into by the person after March 5, 1996 that gives rise to the requirement to file the return or that affects the information to be reported in the return, that sufficient information would be available to the person to comply with the reporting requirements; and
- (d) if the information subsequently becomes available to the person, it is filed not more than 90 days after it becomes so available.

Certification

This area should be completed and signed by:

- the person filing Form T1141 in the case of an individual;
- an authorized officer in the case of a corporation;
- the trustee, executor or administrator in the case of a trust; or
- the authorized person in the case of joint filing.

Name of the person or firm who completed this return

If you are not the reporting taxpayer, and were paid to prepare this return, give your name and address.

Filing this return

Form T1141 must be filed separately from your income tax return.

Before you file this return, make a copy of it for your records.

Send the original return to:

Ottawa Technology Centre
Employer Services Division
Other Program Unit
875 Heron Road
Ottawa ON K1A 1A2

Penalties for non-reporting

There are substantial penalties for failing to complete and file Form T1141 by the due date.

Voluntary disclosures

To promote compliance with Canada's tax laws, we encourage you to voluntarily correct any deficiencies in your past tax affairs.

You can make a voluntary disclosure by contacting your tax services office. The address and telephone numbers are listed under "Canada Customs and Revenue Agency" in the Government of Canada section of your telephone book.

For more information, see Information Circular 85-1R2, *Voluntary Disclosures*.