

2024 Federal Budget Legislative Updates



These legislative updates include notable adjustments to the capital gains inclusion rate change, bare trust reporting and graduated rate estate carry-back.

The Canadian federal government introduced several legislative updates on August 12, 2024 (“the August 12th Proposals”), aimed at implementing tax measures, refining draft legislation, and making technical changes. Including key measures first announced in the [2024 Federal Budget \(Budget 2024\)](#), the most relevant updates include the capital gains inclusion rate increase, trust reporting rule modifications and an extended capital loss carry-back period for estates. For a full list of the legislative updates, visit [this Federal government website](#).

Capital Gains Inclusion Rate Increase

One of the most impactful changes proposed in Budget 2024 is the increase in the capital gains inclusion rate. The inclusion rate for corporations and trusts is set to rise from 50% to 66 2/3%, with a similar increase for individuals on capital gains exceeding \$250,000 in a taxation year.

The August 12th Proposals include refinements to these amendments, particularly in how the capital gains inclusion rate is calculated during transitional years—those that include June 24 and 25, 2024. These years will see a “blended” inclusion rate based on the timing of asset dispositions within the year, creating complexity for taxpayers. These changes aim to align the capital gains inclusion rate in effect at the time of the gain for certain calculations, most notably the capital dividend account (CDA).

The CDA tracks the non-taxable portion of capital gains, among other items, which can then be used to make tax-free distributions to Canadian-resident shareholders as capital dividends. The increase in the inclusion rate affects how these non-taxable portions are calculated, particularly during the transitional years.

To address the complexities arising from the blended rate, the August 12th Proposals introduce specific rules. Notably, a new provision allows for the calculation of CDA using the old inclusion rate (50%) for dispositions before June 25, 2024, and the new rate (66 2/3%) for those occurring after. This approach simplifies the process for corporations determining their CDA balance during the transitional period.

Trust Reporting Rule Modifications

The August 12th Proposals introduce significant changes to the trust reporting requirements, particularly for bare trusts. The current rules, enacted in 2022, impose reporting obligations on express trusts and civil law trusts unless specifically exempted. The proposals aim to streamline these requirements by adding new exemptions and broadening existing ones.

A key change is the clarification of the definition of an “express trust” to include arrangements where one or more persons hold legal title to property on behalf of another, acting as an agent. This modification does not materially change existing rules and serves to provide clearer guidance.

The August 12th Proposals expand the list of trusts exempt from reporting, including:

- Trusts holding property solely for the benefit of a partnership where each legal owner is a partner.
- Trusts holding a principal residence for related individuals.
- Trusts holding Canadian resource property for publicly-listed corporations.
- Trusts holding property under a court order.
- Trusts holding funds from the Crown for the benefit of tax-exempt entities.

Additionally, low-value trusts with assets under \$50,000 are exempt, as are trusts with individual trustees and related beneficiaries if assets are below \$250,000. Trusts required to hold funds under professional conduct rules or Canadian law are also exempt if assets do not exceed \$250,000.

Furthermore, any bare trusts still not exempted from reporting will not be required to file a T3 trust tax return until the 2025 taxation year. This exemption allows additional time to identify such trusts and obtain a better understanding of their reporting requirements.

Graduated Rate Estates: Extended Carry-Back Period

The proposals also extend the period during which a graduated rate estate can carry back capital losses to the final taxation year of the deceased from one year to three years. This extension offers more flexibility in estate planning and aligns the capital loss carry-back period with that available to individuals.

Conclusion

The August 12th Proposals reflect the Canadian government’s efforts to update the tax system in line with Budget 2024. While these changes introduce new complexities, particularly in areas like the capital gains inclusion rate and trust reporting, they also provide opportunities for taxpayers to optimize their tax planning strategies.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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