

TABLE OF CONTENTS

<i>Dedication</i>	iii
<i>Acknowledgements</i>	v
<i>Introduction</i>	xxvii

Part I — Background

Chapter 1 — An Overview of Trust Law

1.1 The Nature of a Trust	3
1.1.1 Trusts as Relationships	3
1.1.2 Parties to a Trust	4
(a) The Beneficiary	4
(i) Purpose Trusts	5
(ii) Different Types of Beneficiaries Distinguished	6
(iii) Hidden Beneficiaries	7
(b) The Settlor	8
(c) The Trustee	10
1.1.3 Division of Ownership	12
1.1.4 The Three Certainties	14
(a) Certainty of Intention	15
(b) Certainty of Subject Matter	16
(c) Certainty of Objects	17
1.2 Creation of a Trust	17
1.2.1 By Law	17
(a) By Operation of Statute	17
(b) By Judicial Intervention	18
1.2.2 By Express Words or Conduct	20
1.3 Distinguishing Trusts from Estates and Other Relationships	21
1.3.1 Trusts Distinguished from Estates	21
1.3.2 Trusts Distinguished from Other Relationships	24
1.4 Provincial Considerations	26
1.4.1 The Rule in <i>Saunders v. Vautier</i>	27
1.4.2 Perpetuities and Accumulations	30
(a) Rule Against Accumulations	30

Table of Contents

(b) Rule Against Perpetuities	31
1.5 The Relationship Between Tax Law and Trust Law	32
1.6 Determining the Applicable Provincial Law	33
1.7 Community Property Legislation	34
Chapter 2 — Types of Trusts	
2.1 General	37
2.1.1 Testamentary Trusts	37
(a) Graduated Rate Estates	37
(b) Definition of Testamentary Trust	39
(i) Trusts Created by Will	40
(ii) Successive Testamentary Trusts	40
(iii) Blended Trusts	40
(iv) Insurance Trusts	41
(v) RRSP Trusts	41
(vi) Trusts Arising by Operation of Dependents' Relief Legislation	43
(vii) An Estate	44
(viii) Trusts Settled with Property from an <i>Inter Vivos</i> Trust	45
(ix) Other Funding Mechanisms	47
(c) Loss of Status as a Testamentary Trust	47
2.1.2 <i>Inter Vivos</i> Trusts	50
2.1.3 Special Purpose Trusts	51
(a) Spousal Trusts	51
(i) Requirements for <i>Inter Vivos</i> Spousal Trust	52
(ii) Requirements for Testamentary Spousal Trust	52
(iii) Canadian Residency Requirement	54
(iv) Spouse Must Be Entitled to All of the Income	54
(A) Determining Whether Entitled or Not Entitled	55
(B) Use of Income Prior to Vesting	56
(C) Spousal Discretion to Recapitalize Income	59
(D) Exceptions for Certain Types of Income	61
(v) No Other Person Allowed Access to Income or Capital	62
(vi) Transfer to Testamentary Spousal Trust Must Be “As a Consequence of Death”	65

Table of Contents

(vii) Property Must “Indefeasibly Vest” in Testamentary	
Spousal Trust	66
(A) Conveyance Not Required	70
(B) Vesting by Disclaimer	70
(C) Vesting by Court Order	71
(D) Judicial Approach to Extending the Thirty-Six Months	74
(E) Timing of Vesting Given Administrative Delay	74
(F) Timing Influenced by Terms of Will	75
(viii) Property Must Be “Transferred or Distributed” to Testamentary Spousal Trust	76
(ix) Testamentary Spousal Trust Must Be Established “By Will”	76
(b) Trusts for Minor Beneficiaries	77
(c) Alter Ego and Joint Spousal Trusts	77
(i) Requirements to Qualify as an Alter Ego Trust	78
(ii) Requirements to Qualify as a Joint Spousal Trust	79
(iii) Self-Benefit Trusts	80
(d) Charitable Remainder Trusts	80
(i) Requirements for a Charitable Remainder Trust	80
(e) Insurance Trusts	83
(f) Qualified Disability Trusts	84

Part II — Taxation of Trusts and Beneficiaries

Chapter 3 — Taxation of Trusts

3.1 Tax Residency of a Trust	89
3.2 Taxation Year	94
3.3 Minimum Tax	95
3.4 Treatment of Income Generally	96
3.4.1 The General Rules Relating to Inclusion and Deduction of Income	96
3.4.2 Exceptions to the General Rules	97
3.4.3 Losses of Trusts	98
3.4.4 Part XII.2 Tax	99
3.4.5 Special Kinds of Trusts Governed by Special Rules	99
3.5 Charitable Gifts Made by Trusts and Estates	100
3.5.1 Summary	100

Table of Contents

3.5.2 General Principles	100
3.5.3 Charitable Donations Made by an Estate	101
3.5.4 Mandatory Transfers Distinguished from Discretionary Transfers	103
(a) Mandatory Transfers to Charity from Trusts	103
(b) Discretionary Transfers to Charity from Trusts	105
3.5.5 Things You Should Know	106
(a) Gift Made Without Authority — Rogue Gifts	106
(b) Gifts from Estates Deferred by Administrative Delay	107
(c) Income Distributions to Charities	108
(d) Designating Capital Gains to Qualifying Donees	109
3.6 The Principal Residence Exemption	110
3.6.1 Summary	110
3.6.2 Personal Trusts Eligible for the Principal Residence Exemption	111
3.6.3 Conditions for Principal Residence Exemption	112
3.6.4 Factors Relating to the Property	114
(a) Type of Property	114
(b) Included Land	116
(c) Mixed Use Lands or Premises	121
3.6.5 Trust Must Own the Property	122
3.6.6 Ordinarily Inhabited by Specified Beneficiary or Qualifying Family Member	124
(a) Beneficially Interested	124
(b) Ordinarily Inhabited	127
3.6.7 Competing Designation	131
3.6.8 Inserting Principal Residence into a Trust	133
3.6.9 Transferring a Principal Residence Out of Trust	134
(a) General	134
(b) Special Rules for Spousal, Alter Ego, and Similar Trusts	136
3.6.10 Planning Considerations	137
(a) Extinguishes Later Use by Specified Beneficiary	137
(b) Designation of Principal Residence	140
3.7 Affiliated Persons Rules and Trusts	141
3.7.1 Summary	141
3.7.2 General Principles	142
3.7.3 Interpretive Rules	143

Table of Contents

3.7.4 Things You Should Know	143
3.7.5 Planning Opportunities and Considerations	144
(a) Pregnant Losses	144
(b) Using Losses Efficiently	144
(c) Stop-Loss Provisions	144
3.8 Association Rules and Trusts	145
3.8.1 Summary	145
3.8.2 Deemed Ownership	145
3.8.3 Minor Beneficiaries	146
3.8.4 Estates	148
3.8.5 Planning Considerations	152
(a) <i>Inter Vivos</i> Trusts	152
(b) Testamentary Trusts and Estates	154
Chapter 4 — Taxation of Beneficiaries	
4.1 Determining Whether Income is Payable	155
4.1.1 Discretionary Income Distributions	155
4.1.2 Non-Discretionary Income Distributions	157
4.2 Calculation of Taxes Payable by Beneficiaries	159
4.2.1 Tax on Split Income	159
4.3 Income in the Form of Benefits Conferred by the Trust	163
4.4 Income in the Form of Outlays for the Upkeep of Trust Property	165
4.5 Designations of Income to be Taxed in a Trust	167
4.6 The Preferred Beneficiary Election	172
4.6.1 Summary	172
4.6.2 Determining if the Preferred Beneficiary Election is Available	173
(a) Considerations Relating to Characteristics of Trusts	173
(b) Considerations Relating to Beneficiary	173
4.6.3 Calculations Under the Preferred Beneficiary Election	175
(a) Calculating the Deduction	175
(b) Calculating Beneficiary Income Under the Preferred Beneficiary Election	176
4.6.4 The Mechanics of Making the Preferred Beneficiary Election	177
4.6.5 Miscellaneous Considerations in Employing the Preferred Beneficiary Election	178
4.6.6 Preferred Beneficiary Election and TOSI	178

Table of Contents

4.7 Flow Through of Income	179
4.7.1 General Rules	179
4.7.2 Designation of Capital Gains	180
(a) General	180
(b) Qualifying for Capital Gains Designations	182
(c) Terms and Conditions of the Trust Arrangement	183
(d) Considerations Relating to Beneficiary	185
(e) Mechanics	186
(f) Dispositions of Qualified Farm or Fishing Property, or Qualified Small Business Corporations Shares	188
(g) Capital Losses	190
(h) Special Rules for Spousal, Alter Ego, and Similar Trusts	191
(i) Designation of Gains from Deemed Realizations	191
(j) Distinguishing Between Designation of Capital Gains and Flow Through of Income	192
4.7.3 Designation of Taxable Dividends	193
4.7.4 Designation of Capital Dividends	197
4.8 Non-Resident Beneficiaries	197
Chapter 5 — Attributions to Contributor Under Subsection 75(2)	
5.1 General Considerations	199
5.2 Potential Reversion Under Subsection 75(2)	200
5.3 Control Over Destination	203
5.4 Gate Keeping	204
5.5 Considerations Relating to Contributions	205
5.5.1 Subsection 75(2) in Context of the <i>Sommerer</i> Decision	208
5.5.2 A Sale of Property to a Trust by a Capital Beneficiary	209
5.5.3 A Loan of an Income-Producing Property	210
5.5.4 Gate-Keeping	211
5.6 Factors Relating to Property	212
5.7 Considerations Relating to Type of Income	212
5.8 Miscellaneous Points Relating to Subsection 75(2) Attribution	214
Chapter 6 — Dispositions of Trust Property	
6.1 Capital Distributions to Beneficiaries	217
6.1.1 Spousal Trusts	217
6.1.2 Personal Trusts Other than a Spousal Trust	218
(a) Tax-deferred Rollouts	218

Table of Contents

(b) Taxable Distributions	219
6.2 Deemed Realizations	222
6.2.1 Deemed Realizations at Twenty-One Years	224
6.2.2 Deemed Realizations on the Death of Certain Beneficiaries	226
6.2.3 Deemed Realizations on Emigration	228
6.2.4 Deemed Realizations on Certain Amendments	228
6.2.5 Trust Transfers or Mergers	231
6.3 Winding Up of a Trust	232
6.3.1 Planning for the Deemed Realization	234
6.3.2 Tax Consequences to the Beneficiary	243
6.3.3 Income Versus Capital Beneficiaries	244
6.3.4 Distributing Shares to Beneficiaries — Acquisition of Control	245
6.3.5 Distributing Capital to Non-Resident Beneficiaries	246
Chapter 7 — Planning with <i>Inter Vivos</i> Trusts	
7.1 <i>Inter Vivos</i> Trust Planning	251
7.1.1 Overview	251
7.1.2 Considerations for Setting up <i>Inter Vivos</i> Trusts	252
(a) Gifting	252
(b) Sale or Transfer to an <i>Inter Vivos</i> Trust	253
7.1.3 Tax Implications of a Transfer	255
(a) Tax Consequences to the Contributor or Settlor	255
(b) Tax Consequences of an “Interest” in the Trust to the Beneficiary	256
(c) Attribution	257
(d) Taxation of Income, Losses, Capital Gains and Capital Losses	258
7.2 The Estate Freeze	259
7.2.1 Overview	259
7.2.2 Family Cottage	260
7.2.3 Investment Portfolio	263
7.2.4 Private Company Shares	267
7.3 Trusts as a Flow-Through or Conduit	271
7.3.1 Overview	271
7.3.2 Taxable Dividends	271
7.3.3 Taxable Capital Gains	274

Table of Contents

7.4 Wealth Preservation	277
7.4.1 Overview	277
7.4.2 Use of Property by a Beneficiary	278
7.4.3 Loan to Beneficiary	280
Chapter 8 — Post-Mortem Tax Planning	
8.1 Introduction	283
8.2 Overview of Planning Objectives	283
8.3 Allocation of Assets	284
8.4 Capital Losses of the Estate	286
8.4.1 Capital Property	286
8.4.2 Time of Disposition by Graduated Rate Estate	286
8.4.3 Canadian Private Corporation	287
8.4.4 Special Rules	290
8.4.5 Depreciable Property	292
8.4.6 Stock Options	292
8.4.7 Other Properties	293
8.4.8 Partnership	293
8.4.9 Foreign Corporation	295
8.4.10 Further Examples — Part Ownership	295
8.5 Step-Up Strategy	298
8.5.1 General Rule	298
8.5.2 Step-Up Examples	300
8.6 Pipeline Strategy	305
8.6.1 Description and Example	305
8.6.2 Pipeline Strategy and Capital Gains Exemption	307
8.6.3 Pipeline Strategy and Non-residents	308
8.7 Combining the Strategies	309
8.8 Utilization of Capital Loss by Beneficiary, Estate or Spousal Trust	312
8.9 Stop-Loss Rules and Share Redemption on Death	314
8.10 Summary	317
8.11 Buy-Sell Agreements	319
8.12 Distributions to Beneficiaries	320
8.13 Post-Mortem Estate Freeze	321
Chapter 9 — Planning with Special Purpose Trusts	
9.1 Special Purpose Trusts	323
9.2 Spousal Trusts	323

Table of Contents

9.2.1 Planning Opportunities and Considerations	323
(a) Marginal Tax Brackets	323
(b) Ensuring Proper Funding	324
(c) Harvesting Losses at Insertion	325
(d) Two-Headed and Three-Headed Spousal Trust Structures	326
(e) Second Marriage Situations	328
(f) Establishing Trusts Under Dependants' Relief Legislation	330
9.2.2 Special Features	331
(a) Rollover Available at Insertion	331
(b) No Deemed Realization at Twenty-One Years	332
(c) Deemed Realization at Death of Spouse	332
9.2.3 Things You Need to Know	333
(a) Common Drafting Errors	333
(b) <i>In Terrorem</i> Clauses	335
(c) Un-Tainting a Tainted Spousal Trust	336
(d) Constructive and Resulting Trusts in Favour of Spouses	339
(e) Opting Out of Special Tax Treatment	340
(f) Loss of Status as Spousal Trust	341
(g) Income Attribution	342
(h) Building Capital Within a Spousal Trust	343
(i) Limits on Donations	346
9.3 Trusts for Minor Beneficiaries	347
9.3.1 Summary	347
9.3.2 General Comments Relating to Trusts for Minor Beneficiaries	348
(a) Attribution to Non-Arm's Length Transferor	348
(i) The Minor	348
(ii) The Transferor	349
(iii) The Type of Income	349
(iv) The Transfer Transaction and Type of Property	350
(v) Miscellaneous Points Relating to 74.1(2) Attribution	351
(b) Pent Up Income Attributed to Minors	352
(c) TOSI Rules	356
9.3.3 Things You Need to Know	358
(a) Whether "In-Trust Accounts" Qualify as Trusts	358
(b) Payments Made Outside Trustees' Discretion	359
9.4 Alter Ego and Joint Spousal Trusts	360

Table of Contents

9.4.1 Planning Opportunities	360
(a) Probate Planning	360
(b) Confidentiality	362
(c) Control of Capital	362
(d) Incapacity Planning	362
(e) Creditor-Proofing	363
(f) Avoiding Dependents' Relief Legislation	363
(g) Jurisdiction Shopping	364
(h) Avoiding Resealing and Bonding	364
9.4.2 Special Features	365
(a) No Disposition at Insertion	365
(b) Opting Out of Rollover	366
(c) No Deemed Disposition at Twenty-One Years	366
9.4.3 Things You Need to Know	367
(a) Cannot Fund Testamentary Trust	367
(b) Attribution of Income to Settlor	367
(c) Principal Residence Exemption	368
(d) Limits on Donations	369
9.5 Charitable Remainder Trusts	369
9.5.1 Summary	369
9.5.2 General Comments Relating to Charitable Remainder Trusts	370
(a) Origins and Conceptual Background	370
(b) Terms of Trust and Access to Capital	371
(c) Valuation Issues	373
(d) Factors Relating to the Property	377
(e) Claiming the Deduction or Tax Credit	378
(f) Other Tax Consequences for Settlor	379
(g) Ongoing Taxation of the Charitable Remainder Trust	380
(h) Types of Trusts that Qualify	381
(i) Gifts Perfected by Variation, Contingency, or Disclaimer	382
(j) Planning Opportunities and Considerations	384
(i) Tax Holidays	384
(ii) Planning Considerations Dealing with Couples	384
(iii) Concurrent Strategies	385
(iv) Conservative Planning	385
9.5.3 Things You Need to Know	386
(a) Future Events Other than Death	386

Table of Contents

(b) Impact of the Even Hand Rule	386
(c) Gift of Income Interests to Charity	387
(d) More than One Charity as Capital Beneficiaries	387
(e) Multiple Income Beneficiaries	388
(f) Practical Steps in Setting Up a Charitable Remainder Trust	388
9.6 Insurance Trusts	388
9.6.1 Summary	388
9.6.2 Insurance Trust Funded with Proceeds at Death	390
(a) The Beneficiary Designation	390
(b) The Terms of Trust	394
(c) Planning Considerations	399
(i) Securing Status as Testamentary	399
(ii) Spousal Trust	400
(iii) Probate Planning	401
(iv) Planning Driven by Confidentiality or Secrecy	403
(v) Planning Driven by Creditor Proofing	405
(vi) Avoiding Family Property Claims	405
(vii) Avoiding Dependants' Relief Claims	406
(viii) Making Sure the Policy Fits the Structure	406
9.6.3 Holding Insurance Policies in Trust	407
 Chapter 10 — Special Considerations for Non-Resident Trusts	
10.1 Residency Considerations	409
10.1.1 Common Law Test	409
10.1.2 Deemed Resident Trust	412
(a) Old Rules	412
(b) New Rules	413
10.1.3 Foundation	417
10.1.4 Treaty Considerations	417
10.2 Resident Contributor	419
10.2.1 Specified Time	420
10.2.2 Contributor	421
10.2.3 Contribution	421
10.2.4 Extended Transfer Rules	425
(a) New Paragraph 94(2)(a) — Inadequate Consideration	425
(b) New Paragraph 94(2)(c) — Indirect Transfers	426

Table of Contents

(c) New Paragraph 94(2)(d) — Guarantees, Financial Assistance	426
(d) New Paragraph 94(2)(f) — Services	427
(e) New Paragraph 94(2)(g) — Share Subscriptions etc.	428
(f) New Paragraph 94(2)(i) — Obligation to Transfer	429
(g) New Paragraph 94(2)(j) — Death	429
(h) New Paragraphs 94(2)(k) and (l) — Transfers Involving Others	430
(i) New Paragraph 94(2)(k.1) — Transfer for Services	431
(j) New Paragraph 94(2)(m) — Transfer to Corporation	431
(k) New Paragraph 94(2)(n) — Trust to Trust Contribution	431
(l) New Paragraph 94(2)(o) — Partnership to Trust Contribution	432
(m) New Paragraphs 94(2)(q), (r) — Interest of Trust	433
(n) New Paragraphs 94(2)(s), (t), (u) — Transfers Required by Securities Law	434
(o) New Paragraph 94(2)(v) — Loan by Financial Institution	434
10.2.5 Electing Contributor	434
10.2.6 Joint Contributor	435
10.3 Resident Beneficiary	435
10.3.1 Beneficiary	436
10.3.2 Connected Contributor	436
10.3.3 Successor Beneficiary	437
10.4 Taxation of Non-Resident Trusts	437
10.4.1 Income Taxed in the Trust	438
10.4.2 Electing Trust	439
10.4.3 Foreign Tax Credit and Foreign Tax Deduction	440
10.4.4 Income Paid or Payable to a Beneficiary	440
10.5 Taxation of Electing Contributors	442
10.6 Taxation of Beneficiaries	443
10.6.1 Canadian Beneficiaries	443
10.6.2 Non-Resident Beneficiaries	443
10.7 Attribution Rules	444
10.7.1 Reversionary Rule	444
10.7.2 Attribution of Income	445
10.7.3 Interest-Free Loan to a Non-Resident Trust	445

Table of Contents

10.7.4 Corporate Attribution	445
10.8 Joint and Several Liability	446
10.9 Becoming Resident in Canada	447
10.10 Ceasing to be Resident in Canada	448
10.11 Commonly Used Structures	448
10.11.1 Inbound Trust	449
10.11.2 Immigrant Trust	450
10.11.3 Outbound Trust	452
10.11.4 Offshore Trust for Canadian Beneficiaries	456
10.11.5 No Connections Trust	458
10.11.6 Close Connections Trust	458
10.12 Summary	460

Part III — Filing Requirements and Administration by CRA

Chapter 11 — General

11.1 Who Should File?	465
11.2 How to File	467
11.2.1 Internet Filing	467
11.2.2 Paper Return, Summary and Slips	468
11.3 Where to File	468
11.4 Filing Requirements and Deadlines	469
11.5 New Trust Reporting Requirements	469
11.6 Interest and Penalties	471
11.7 Liability of Trustees and Personal Representatives	473
11.8 Clearance Certificates	475
11.9 Notifiable Transactions	476
11.10 Assessments and Reassessments	477
11.11 Notice of Objection	481
<i>Think About</i>	482

Part IV — Preparing the T3 Trust Information and Income Tax Return

Chapter 12 — Completing the T3 Application for Trust Account Number

12.1 Application for Trust Account Number	485
12.2 Trust Information	486
12.2.1 Name of Trust	486

Table of Contents

12.2.2 Official Language	487
12.3 Primary Trustee Contact Information	487
12.4 Address	487
12.5 Mailing Address	487
12.6 Representative Contact Information	488
12.7 Additional Trust Information	488
12.8 Signature and Date	488
Chapter 13 — Completing the Information Return	
13.1 Trust Account Number and Fiscal Period	493
13.2 Name of Trust	493
13.3 Residence of Trust	494
13.4 Trustee Information	494
13.5 Trust Information	494
13.6 Type of Trust	495
13.6.1 Graduated Rate Estate (GRE) or Qualified Disability Trust (QDT)	495
13.6.2 Other Types of Trust	495
13.7 Information about the Return	496
13.8 Reporting Foreign Income and Property	498
13.9 Other Information Required	498
13.9.1 Electing Trust	498
13.9.2 Income Payable to Beneficiaries	499
13.9.3 Distribution to Beneficiary	499
13.9.4 Change of Beneficiaries	501
13.9.5 Death of Lifetime Beneficiary	501
13.9.6 Incurred a Non-Arm’s Length Debt	501
13.9.7 Change in Beneficial Ownership	502
13.9.8 Shares in a Private Corporation	502
13.9.9 Additional Contribution of Property	503
13.9.10 Public Trusts	503
13.9.11 International Financial Reporting Standards	504
13.9.12 Loss Restriction Event	504
<i>Think About</i>	510
Chapter 14 — Calculating Total Income	
14.1 Line 1 — Taxable Capital Gains	511
14.1.1 General Rules	512

Table of Contents

14.1.2 Reserve for Proceeds Not Due	513
14.1.3 Utilizing Capital Losses	515
14.1.4 Characterization of Capital Gain for Trust Law Versus Tax Purposes	517
14.2 Line 2 — Pension Income	518
14.3 Line 3 — Total of Actual Amount of Dividends from Taxable Canadian Corporations	518
14.3.1 Deemed Dividend	520
14.3.2 Capital Dividend	522
14.4 Line 4 — Foreign Investment Income	523
14.5 Line 5 — Other Investment Income	523
14.6 Line 6 — Business Income	524
14.7 Line 7 — Farming or Fishing Income	525
14.8 Line 8 — Rental Income	526
14.9 Line 9 — AgriInvest Fund 2	527
14.10 Line 10 — Deemed Disposition, Income or Losses	528
14.11 Line 11 — Other Income	529
14.11.1 Death Benefit — Other than CPP or QPP	529
14.11.2 Registered Retirement Savings Plan (RRSP)	530
14.12 Line 12 — Trust's Total Income	531
<i>Think About</i>	531
 Chapter 15 — Calculating Net Income	
15.1 Line 14 — Carrying Charges and Interest Expense	533
15.1.1 Interest Expense	533
15.1.2 Re-Loaned Funds	535
15.1.3 Other Carrying Charges and Expenses	535
15.1.4 Accounting Fees	535
15.1.5 Legal Fees	536
15.2 Line 17 — Trustee Fees Deductible from Income	537
15.3 Line 18 — Allowable Business Investment Losses (ABIL)	540
15.4 Line 19 — Other Deductions from Total Income	541
15.5 Line 22 — Upkeep, Maintenance and Taxes of a Property Used or Occupied by a Beneficiary	542
15.6 Line 23 — Value of Other Benefits to a Beneficiary	543
15.7 Line 24 — Total Taxable Benefits	543
15.8 Line 28 — Total Deductible Income Allocations	543

Table of Contents

15.9 Line 30 — Total Gross-Up Amount of Dividends Retained or Not Designated by the Trust	544
15.10 Line 31 — Trust’s Net Income	545
<i>Think About</i>	546
 Chapter 16 — Calculating Taxable Income	
16.1 Line 33 — Non-Capital Losses of Other Years	547
16.2 Line 34 — Net Capital Losses of Other Years	548
16.3 Form T3A — Request for Loss Carryback by a Trust	549
16.4 Line 42 — Other Deductions to Arrive at Taxable Income	550
16.5 Line 43 — Trust’s Taxable Income	550
<i>Think About</i>	551
 Chapter 17 — Summary of Tax and Credits	
17.1 Line 44 — Total Federal Tax Payable	553
17.2 Line 45 — Provincial or Territorial Tax Payable	553
17.3 Line 46 — Part XII.2 Tax Payable	554
17.3.1 Designated Income	554
17.3.2 Designated Beneficiary	555
17.4 Line 48 — Tax Paid by Instalments	556
17.5 Line 49 — Net Tax Deducted	556
17.6 Line 50 — Refundable Quebec Abatement	556
17.7 Line 51 — Refundable Investment Tax Credit	556
17.8 Line 53 — Part XII.2 Tax Credit	556
17.9 Lines 54 to 67 — Other Credits	557
17.9.1 Line 54 — Newfoundland and Labrador Research and Development Tax Credit	557
17.9.2 Line 57 — British Columbia Mining Exploration Tax Credit	557
17.9.3 Line 60 — Yukon Research and Development Tax Credit	557
17.9.4 Line 61 — Manitoba Mining Exploration Tax Credit	557
17.10 Line 70 — Refund or Balance Owing	558
17.11 Line 71 — Amount Enclosed	558
17.12 Line 72 — Refund Code	559
17.13 Name and Address of Person or Company (Other than Trustee, Executor, Liquidator or Administrator) Who Prepared the Return	559
17.14 Certification	559
<i>Think About</i>	560

Table of Contents

Chapter 18 — Trust Schedules and Forms

18.1 Schedule 1 — Dispositions of Capital Property	561
18.1.1 Meaning of “Disposition”	566
18.1.2 Qualified Small Business Corporation Shares (QSBC shares)	568
18.1.3 Qualified Farm or Fishing Property	569
18.1.4 Mutual Fund Units and Other Shares	571
18.1.5 Bonds, Debentures, Promissory Notes, Crypto-assets and Other Similar Properties	571
18.1.6 Real Estate and Depreciable Property	572
(a) General Comments	572
(b) Non-Arm’s Length Transfers	573
(c) Land	574
18.1.7 Principal Residence	574
18.1.8 Valuation Day (V-Day) Considerations	575
18.1.9 Personal-Use Property	576
18.1.10 Listed Personal Property (LPP)	576
18.1.11 Information Slips	577
18.1.12 Capital Gains (or Losses) from Reserves	577
18.1.13 Capital Gains from Gifts of Other Capital Property	577
18.1.14 Total Losses Transferred Under 164(6)	578
18.2 Schedule 2 — Reserves on Dispositions of Capital Property	579
18.3 Schedule 3 — Eligible Taxable Capital Gains	581
18.4 Schedule 4 — Cumulative Net Investment Loss	584
18.5 Schedule 7 — Pension Income Allocations and Designations	587
18.6 Schedule 8 — Investment Income, Carrying Charges, and Gross-Up Amount of Dividends Retained by the Trust	590
18.6.1 Dividends from Taxable Canadian Corporations	590
18.6.2 Foreign Investment Income	590
18.6.3 Lines 7 to 12 — Other Investment Income	590
18.6.4 Lines 13 to 17 — Carrying Charges and Interest Expenses	591
18.6.5 Lines 18 to 32 — Calculating the Gross-Up Amount of Dividends Retained or Not Designated by the Trust	591
18.7 Schedule 9 — Income Allocations and Designations to Beneficiaries	594
18.8 Schedule 10 — Part XII.2 Tax and Part XIII Non-Resident Withholding Tax	599

Table of Contents

18.9 Schedule 11 — Federal Income Tax	602
18.10 Schedule 12 — Minimum Tax	607
18.11 — Schedule 15 — Beneficial Ownership Information of a Trust	614
18.11.1 — Part A — Annual Beneficial Ownership Information	614
18.11.2 — Part B — Identification of Reportable Entities	614
18.11.3 — Part C — Beneficiaries Unable to Be Listed	614
<i>Think About</i>	617

Part V — Completing the T3 Summary and T3 Slips

Chapter 19 — Filing Requirements

19.1 General	621
19.2 Completing the T3 Summary	621
19.3 Completing the T3 Slips	625
19.3.1 Dividends	626
19.3.2 Taxable Capital Gains	626
19.3.3 Other Income Allocations and Designations	627
19.3.4 Tax and Other Credits	629
19.4 Filing the T3 Summary and T3 Slips	633
19.4.1 Filing	633
19.4.2 Distributing the T3 Slip	633
19.5 Amending, Cancelling or Issuing Duplicate T3 Slips	633
19.5.1 Amended Slips	633
19.5.2 Cancelled Slips	633
19.5.3 Duplicate Slips	634
19.6 Amending the T3 Summary	634
<i>Think About</i>	634

Part VI — Filing Requirements for Non-Resident Trusts

Chapter 20 — Tax Filings for Non-Resident Trusts

20.1 Introduction	637
20.2 Deemed Resident Trust	637
20.2.1 General Computation Rules	637
20.2.2 Distributions to Non-Residents and Subsection 104(7.01)	637
20.2.3 Part I Tax Calculation	638
20.2.4 Foreign Tax Credit	638
20.2.5 Part XII.2 Tax	638
20.2.6 Part XIII Tax	639

Table of Contents

(a) Receiving Income	639
(b) Payments by the Trust	639
20.2.7 21-Year Rule Deemed Realizations	639
20.3 Non-Resident Trust	639
20.3.1 Basis of Taxation	639
20.3.2 Treaty Exemptions	640
20.3.3 No Deduction on Distribution	640
20.3.4 Part I Tax Calculation	640
20.3.5 Part XII.2 Tax	640
20.3.6 No Part XIII Tax	641
20.3.7 Section 216	641
20.3.8 21-Year Rule Deemed Realizations	641
20.4 Disposition of Taxable Canadian Property	641
20.4.1 Section 116 Requirement	641
(a) Deemed Resident Trust	641
(b) Non-Resident Trust	642
20.4.2 Liability of Purchaser	642
20.4.3 Penalty	643
Chapter 21 — Foreign Reporting	
21.1 Reporting by Contributor	645
21.2 Reporting by Beneficiaries	645
21.3 Reporting by Trust	647
21.3.1 Foreign Affiliates	647
21.3.2 Foreign Property	648
21.3.3 Example	651
21.4 Penalties	652
21.5 Summary Table	654
Part VII — Appendices	
Appendix A: Income Tax Folios, Interpretation Bulletins, and Information Circulars	659
Appendix B: Technical Interpretations	665
<i>Index</i>	681