

VIDEO TAX NEWS

Monthly Tax Update Newsletter

October 2026 — ISSUE 542

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WHAT'S INSIDE

1. Government Releases
2. Canada's COVID-19 Response
3. Personal Tax
4. Business/Property Income
5. Capital Gains/Losses
6. Purchase/Sale of a Business
7. Corporate Tax
8. CRA
9. Estate Planning
10. Relationship Breakdown
11. International
12. GST/HST
13. Did You Know...
14. Appendix

1 Government Releases

542(1)

FINANCE RELEASES

1. **September 15, 2026** – The Department of Finance proposed to provide **permanent immediate expensing** of most depreciable property **acquired on or after September 15, 2026** (see VTN [542\(8937\)](#)).
2. **September 2, 2026** – The Department of Finance announced that the government is extending the **temporary suspension** of the **federal fuel excise tax until January 31, 2027** and applying **50%** of the **regular excise tax rate from February 1 through March 31, 2027**.

CRA RELEASES

1. **September 14, 2026** – CRA issued a News Release (Greater tax certainty for major investments in Canada) announcing that they will **prioritize advance income tax ruling** requests related to **investments of \$1 billion or more in Canada**. CRA stated that they continue to offer the established **90-business day service standard** (or mutually agreed upon service target date) for all **rulings** requests that do **not qualify** for prioritized access.
2. **September 9, 2026** – CRA emailed stakeholders announcing the launch of the **businesses operating in the trucking industry** webpage, which provides links to tax-related resources for businesses operating in the **trucking industry**, such as information on **reporting fees for services, personal services business rules, T4A slips** and

resources for clients in the trucking industry



summaries and **GST/HST requirements**.

OTHER RELEASES

1. **September 10, 2026** – An Employment and Social Development Canada News Release (**Supplemental Canada Disability Benefit** (CDB) payments to begin in **September**) announced that CDB recipients will receive a **one-time supplemental payment of \$150** (see VTN [532\(8473\)](#)). Individuals will not need to apply for the supplemental payment. The payment will be **issued automatically** to those who qualify in the following phases:

no need to apply for the supplemental disability benefit

- **September 17, 2026** – individuals who received a CDB payment during the months of July 2025 to June 2026; and
- **Winter 2027** – individuals who became eligible for a CDB payment at any time since July 2026 and individuals who were approved for a new DTC certificate (i.e. re-certified for the DTC). The release did not indicate when in winter 2027 (early or late) the payment was expected to be made.

2. **September 1, 2026** – Agriculture and Agri-Food Canada released the **initial list of designated regions** where extreme weather conditions existed in 2026 for purposes of the **livestock tax deferral provision** (Subsection 80.3(4)). Locations in **British Columbia, Alberta, Newfoundland and Labrador, the Northwest Territories and Quebec** were included in this initial list. Livestock producers in these regions may choose to defer a portion of their 2026 sale proceeds of breeding livestock until 2027. Costs of replacing the animals in 2027 may offset the deferred income.

2 Canada's COVID-19 Response

542(2)

BUSINESS SUBSIDIES – REVENUE DECLINE

An August 31, 2026 **Tax Court of Canada** case ([Traductions Sematos Inc. vs. HMK, 2024-2247\(IT\)G](#)) reviewed whether the taxpayer could include approximately **\$70,000 of unbilled work in progress (WIP)** in its **qualifying revenue** for **January and February 2020**. The work was completed and billed by the end of March 2020. The taxpayer **manually adjusted** their records to **remove \$70,000 in revenue from March and add it back in for January and February 2020**.

The adjustment **increased** available **COVID-19 subsidies**, as it resulted in a larger revenue decline for the relevant periods.

Qualifying revenue generally means the inflows of cash, receivables or other consideration arising in the course of ordinary activities of the taxpayer as is **determined in accordance** with the **taxpayer's normal accounting practices** (Subsection 125.7(4) and definition of qualifying revenue in Subsection 125.7(1)).

the taxpayer's normal accounting practices

Taxpayer loses

In reviewing the applicability of GAAP, the court held that, while courts can recognize that GAAP exists, they should generally **not take judicial notice of the content of specific GAAP rules** because accounting standards are complex guidance requiring professional judgment.

The court also noted that **WIP** is a form of **inventory** for tax purposes (Paragraph 10(5)(a)) and that the legislation does **not establish** that WIP should be **included** in computing **revenue**. The court noted that if the Income Tax Act had mandated treating WIP as a revenue inclusion, even if no amount was billed or received, it would have provided more direction to that effect.

The court found that the **taxpayer** had **not systematically tracked WIP since December 2017** and that the **evidence did not show** that **WIP** had **historically been consistently included in revenue**. The court noted that the taxpayer did not call his current or any past accountants to testify as to how, if at all, they accounted for WIP in computing revenues.

While the **taxpayer claimed it only tracked** and reported **WIP** when it **exceeded \$20,000**, the Court found **insufficient evidence** that it **followed this policy consistently**, further raising questions about accounting consistency. The court further stated that it was **problematic to include an amount** (in this case WIP) in **revenue** only sometimes and then use an **arbitrary financial threshold** that was not applied consistently.

In addition, the January and February WIP reports were **not prepared contemporaneously**. The taxpayer reviewed and reconstructed its WIP in **April 2020, after** the COVID-19 **relief program** had been **announced**. The court found that the taxpayer **retroactively included WIP to increase January/February baseline revenue** while decreasing March revenue. Without these adjustments, March revenue was actually higher than January or February.

likely skepticism of adjustments made to expand eligibility for benefits

The court found that including WIP in January and February 2020 was **not part of the taxpayer's normal accounting practices** and thus was **not included in qualifying revenue** for this period. The taxpayer's alleged **WIP practice** was **unreasonable** because the method did **not produce a consistent picture of revenue**. The court found that the **taxpayer miscalculated its revenue decline** because it **overstated the baseline revenues** for January and February 2020 from which those comparative calculations flowed.

More broadly, the court held that **qualifying revenue** for these COVID-19 **subsidies** is determined using the **eligible entity's established normal accounting practices, rather** than whichever **method CRA** considers **more accurate**. However, those practices **cannot** be wholly **unreasonable**. Note that the court did not decide whether unbilled WIP could otherwise satisfy the statutory definition of qualifying revenue more broadly, although it questioned whether unbilled WIP could constitute cash, receivables or other consideration.

3 Personal Tax

542(3)

SETTLEMENT PAYMENTS

A May 20, 2026 **Technical Interpretation** ([2026-1092981E5](#), Christopher Brennan) considered whether **class action settlement payments** for **historical systemic harm** were **taxable** and affected **income-tested benefits**. The payments were intended to compensate class members for historical systemic harms, including denial of supports, forced institutionalization and Charter-based discrimination.

Based on the nature and purpose of the payments, CRA opined that they were **damages** for **personal injury**. As such, CRA noted that they would **not constitute income from a source** and therefore would neither be taxable nor included in income. **Income-tested benefits** would **not** be **affected**.

whether the payments were income from a source

4 Business/Property Income

542(4)

ACCELERATED CCA – PRODUCTIVITY MEGA DEDUCTION PROPOSAL

On [September 15, 2026](#), the Department of Finance released [draft legislation](#) and [regulations](#) to implement **immediate expensing** of most depreciable property **acquired on or after September 15, 2026**. Unlike many recent CCA-related incentives, there would be **no phaseout** of this **immediate expensing proposal**. This incentive is being referred to as the productivity mega deduction.

proposed permanent CCA enhancement

Eligible property would include **all depreciable capital property** subject to the CCA rules acquired on or after **September 15, 2026, other than the following assets** (referred to as excluded property):

- **buildings and additions to buildings** in class 1 or class 3 (the temporary manufacturing and processing building immediate expensing incentive (see VTN [532\(8483\)](#)) would be unchanged by these new proposals);
- **intangible assets**, such as franchises, licences and goodwill, included in class 14 or class 14.1;
- **certain vehicles** included in classes 10 and 10.1 (referred to as excluded vehicles; see discussion below);
- regulated natural gas distribution pipelines in class 51;
- qualified liquefaction equipment used in liquefied natural gas (LNG) facilities (other provisions would apply to assets used in LNG facilities);
- industrial mineral mines or a right to remove industrial minerals from an industrial mineral mine; and
- a timber limit or a right to cut timber from a limit, other than a timber resource property.

In addition, **Canadian development expenses** would qualify for **immediate expensing**.

Excluded vehicles would **not** be **eligible** for this immediate expensing. They include the following categories of vehicles:

- **passenger vehicles** (automobiles as defined in Subsection 248(1) that would be class 10.1 assets if their cost exceeds the particular limit for the year);
- **vans, pickup trucks or similar vehicles** that are excluded from the definition of an automobile due to their use in a business in the year of acquisition (Paragraph (e) of the definition of automobile in Subsection 248(1); see VTN [442\(4097\)](#));
- **motor vehicles** that are acquired **primarily** for use as a **taxi**;
- **motor vehicles** that are excluded from the definition of automobile because they are **either** (Paragraph (d) of the definition of automobile in Subsection 248(1)):
 - **rented or leased** in an **automobile rental business**; or
 - used to transport passengers in a **funeral business** (a hearse has a separate carve-out from the definition of automobile and would be eligible for immediate expensing).

broad type of vehicles that may be excluded

In addition, vehicles **must also meet either** of the following conditions to be **excluded** and thus **ineligible** for **immediate expensing**:

- **assembled** in a **country other than Canada**; or
- **used for any purpose before** it was acquired by the taxpayer.

In other words, to qualify for **immediate expensing**, the **vehicle** must be **both new and assembled in Canada**. Although not noted in the release, an April 17, 2025 AutoTrader.ca article ([How Can You Tell if a Car is Made in Canada?](#)) stated that a vehicle identification number (VIN) for a vehicle

determining whether the car was assembled in Canada

assembled in Canada will begin with the number 2.

As with **class 10.1 assets** previously designated for immediate expensing, eligible class 10.1 vehicles would be subject to **recapture** on disposition. Alternatively, taxpayers may **elect** that **class 10.1 assets** be **excluded property** (not eligible for immediate expensing), in which case the vehicle would qualify for the existing class 10.1 CCA rules.

*election to be excluded
property to avoid
recapture on disposition*

Limitations and restrictions

The same assets that were ineligible for some previous CCA incentives – those acquired by **rollovers** and those **previously depreciated** or held as **inventory** by the same person or a **non-arm's length person** – would be **ineligible** for this immediate expensing.

Individuals and partnerships with individual partners would **not** be **permitted to create or increase a loss** from the property or business activity in which the assets are used, consistent with the previous temporary immediate expensing measure.

For **short tax years**, there would be **no requirement to prorate** immediate expensing CCA claims.

TENANT INDUCEMENT ALLOWANCE – CURRENT EXPENSE

A June 22, 2026 French **Court of Quebec** case ([41 Victoria et al. vs. QRA, 2026 QCCQ 2904](#)) reviewed whether a **lease inducement payment** in 2015 from the taxpayers (landlord) who carried on a partnership to their **tenant** for **leasehold improvements** was a **current expense** fully deductible in the year.

Under the lease contract, the **landlord** agreed to **pay** the **tenant a lease inducement** of \$4.6 million to **reimburse** a portion of the tenant's initial leasehold improvement costs. Once the **inducement** was **paid**, the **monthly rent** of \$339,843 was **increased** by \$25,555, effectively **spreading** the \$4.6 million amount over the initial **15-year lease term**, without interest. Although the lease described this mechanism as a reimbursement of the inducement, the tenant made a **single monthly rent payment** that included the increased amount, and a March 1, 2018 amendment formally incorporated the additional amount into the basic rent.

Revenu Québec (RQ) argued that the lease inducement was an **interest-free loan** repayable through increased rent over the lease term, or alternatively, that the payment should be deducted on a **straight-line basis** over the lease term. RQ denied the taxpayers' partnership losses related to the current lease expense and assessed gross negligence penalties.

Taxpayers win

As the **characterization** of the payment depends on the **legal relationship**, **contractual terms**, parties' **conduct** and other facts, the court examined these issues.

characterization depends on the facts of each situation

The court found that the **payment** was an **inducement** to entice the tenant into a long-term lease and therefore a **current expense** incurred to earn rental income. The **allowance** was **negotiated** as part of **securing the tenant**. The **tenant's** broker specifically **requested** that an **allowance** for improvements be included in the offer. The landlord also explained that providing the allowance formed part of the overall economics of **attracting a long-term, "Class A" tenant**.

The court considered the following **additional factors** in determining that the payment was a current expense:

- the tenant first had to **incur the qualifying expenditures** and **provide invoices/support before** the landlord became **obligated** to pay the **allowance**; the court noted RQ's inconsistency in not challenging input tax credits related to the costs of the qualifying expenditures and specifically noted that this **arrangement** was **inconsistent** with a **loan**;
- a **loan requires repayment** of the amount, and the **contract** that the parties entered into did **not provide** for any such **required repayment** (for example, in the case of the destruction of the building or termination of the lease);
- the **allowance** depended on the **existence** of the **lease**;
- the **landlord's conduct** (e.g. financial statements and tax filings) was **consistent** with a **current expense** rather than a loan;
- **no loan receivable** was **transferred** when the **property was sold** before the end of the term of the lease; and
- **sales tax** was **charged** and remitted on the **entire rent**, including the inducement-related component.

conduct and contract inconsistent with a loan

The court noted that, if it **accepted RQ's argument** that the payment constituted a **loan**, then the amount would never be deductible from the taxpayers' income, resulting in a **position inconsistent** with the universal **principle** that **profit** should be **calculated** considering the **expenses incurred** to **earn income**.

The court further noted that an **accounting expert** testified that there were **multiple acceptable accounting methodologies** for the payment, including immediate expensing and deducting the payment over the term of the lease on a straight-line basis. The expert concluded that the **landlord's chosen method** of **expensing** the amount **immediately** provided an **appropriate picture** of their **income**.

The court concluded that, consistent with a past Supreme Court of Canada case ([Canderel Ltd. vs. HMQ, Docket #24663](#)), the **cost** was properly **deducted** as a **current expense** in the year paid even though it **produced** both **immediate and future benefits**. See VTN [475\(5801\)](#) for a Quebec Court of Appeal case that found that tenant inducements were on account of capital.

The court finally observed that the landlord **obtained professional accounting/tax advice** before adopting the treatment. Given this fact and the fact that the debate surrounding classification lasted four days, even if the court had not accepted the taxpayers' position, it would not conclude that the taxpayers were grossly negligent.

obtaining professional advice helpful in gross negligence disputes

SR&ED – PERFORMED BY THIRD PARTY

Scientific research and experimental development (SR&ED) activities of a **current** nature that are related to the **taxpayer's business** and directly **undertaken** in Canada **on behalf of the taxpayer** are added to the **pool** of SR&ED expenditures that can be deducted in the year incurred or in any later tax year (Subparagraph 37(1)(a)(i.01); see [contract expenditures for SR&ED performed on behalf of a claimant policy](#) webpage). These expenses are also **qualifying expenditures** (defined in Subsection 127(9)) for **SR&ED investment tax credits** (ITCs).

SR&ED performed by third parties may generate ITCs

In an April 13, 2026 **Technical Interpretation** ([2025-108271117](#), Matthew Ross), CRA stated that this possibility refers to situations where SR&ED is **contracted** out by the taxpayer **to another party**, the **taxpayer** exercises **some direction, control** or **other involvement** in the SR&ED undertaken by the third party and the **taxpayer acquires** or maintains **rights to use** the **results** of the SR&ED. It is a **question of fact** whether these conditions would be met.

whether there was sufficient control or involvement and rights to use results of the research

In the specific situation reviewed, a **contract research organization** (CRO) **managed clinical research** for a **pharmaceutical company**. The CRO's main responsibility was to verify and pay invoices with respect to the research. The **CRO** received a fee from the pharmaceutical company and used part of it to pay the research sites (e.g. hospitals and universities) for the research costs. However, the **CRO did not direct or control the research** activities carried out by the sites, was **not** otherwise **involved** in the **research** process and did **not obtain rights** to use the research results. As such, CRA concluded that the **research was not undertaken** on behalf of the CRO, and therefore the CRO could **not deduct** the amounts paid to the research sites under this SR&ED-specific provision. While not noted in the interpretation, as the expenses would not be deductible under this provision, they would **not be qualifying expenditures** and thus would **not generate SR&ED ITCs**.

payment for research is not sufficient

This interpretation does not discuss whether these costs were deductible; rather, it only discussed whether the facts of the situation met this SR&ED-specific provision.

INSOLVENCY PROPOSAL – DEBT FORGIVENESS

In a February 11, 2026 French **Quebec Court of Appeal** case ([Sail Plein Air Inc. vs. QRA, 2026 QCCA 163](#)), the taxpayer filed for a **proposal** under the **Bankruptcy and Insolvency Act**. Having satisfied the relevant conditions, the taxpayer was **discharged** from **\$45.4 million of debt**. It was undisputed that this resulted in the application of the **debt forgiveness rules** (Quebec Taxation Act Section 485, which parallels the federal Income Tax Act Section 80). While the taxpayer included the **taxable income** from the debt forgiveness in its tax filing, it did **not pay** the **resulting tax** because it believed the tax liabilities had been released by the proposal. **CRA** and **QRA** assessed the **taxpayer** with \$3,251,395 and \$1,500,300, respectively.

debt forgiveness rules still apply and can generate a tax liability

Taxpayer loses

The court confirmed that the **tax liabilities** from the **debt forgiveness** were not provable claims compromised by the proposal and **remained collectible** by CRA and Revenu Québec.

5 Capital Gains/Losses

542(5)

BAD DEBTS – MULTIPLE ELECTIONS

If a taxpayer establishes that a particular **debt owing** at year-end became a **bad debt** during the year, they can file an **election** that deems the debt to be **disposed of** at year-end **for nil** proceeds and immediately **reacquired at nil** cost (Subsection 50(1)). This can produce a capital loss or, where the applicable requirements are satisfied, a business investment loss (see VTN [523\(8115\)](#)).

An April 1, 2026 French **Technical Interpretation** ([2025-105065117](#), Éric Paquin) noted that the **election** must be **made separately** for **each bad debt** and cannot be made once to collectively cover multiple debts. Whether a debt has become uncollectible is a **question of fact**, as discussed in Paragraph 1.34 of Folio [S4-F8-C1 Business Investment Losses](#), and each debt must be considered separately. However, CRA indicated that a taxpayer could document **several distinct elections in one signed letter**, provided that it clearly identifies each debt and otherwise satisfies the election requirements.

multiple elections on a single letter

6 Purchase/Sale of a Business

542(6)

SECTION 160 – TAX LIABILITY AFTER BUSINESS SALE

An August 27, 2026 **Federal Court of Appeal** (FCA) case ([Harvard Properties Inc. vs. HMK, A-382-24](#)) reversed a Tax Court of Canada (TCC) decision (VTN [520\(7930\)](#)) involving assessments of tax liability under Section 160 in respect of tax debts incurred after the sale of a corporation to an unrelated party. The taxpayers were **approached** by a **purchaser** (Abacus) offering to acquire corporate **real estate** by way of a **share sale**, with the **price** based on the **after-tax value** of the **assets** if they were sold in an **asset sale**. Abacus then **sold the assets** to a third-party purchaser. CRA subsequently **reviewed** the sale, **reassessed** the Abacus group for tax on the asset sales and **assessed** the **vendors** for the resulting taxes under Section 160.

The **TCC concluded** that the parties were **not acting at arm's length**, that the taxpayer received a premium over fair market value (FMV) funded by the purchaser's tax planning and that the taxpayer had not provided FMV consideration for amounts it received. As such, Section 160 applied. The TCC also stated that GAAR would apply if Section 160 did not.

Taxpayers win – arm's length

The FCA concluded that the **TCC's decision** rested largely on its finding that the **taxpayer** had **received a premium** above the FMV of the asset, with that premium effectively funded by taxes the Abacus group did not pay. However, the **\$89.8 million FMV** of the **asset** was **not in dispute** at trial. CRA had proceeded on the basis that the price paid by the arm's-length third-party purchaser represented the real estate's FMV. CRA had presented no evidence suggesting otherwise and expressly advised the TCC that the real estate's FMV was not an issue. Despite this, the **TCC ultimately rejected** the \$89.8 million value and faulted the taxpayer for failing to provide additional valuation evidence. The FCA held that deciding the case on this basis was an **error of law** and **procedurally unfair**. In fact, the FCA found that there was only one conclusion: the **real estate's FMV was \$89.8 million**, being the amount paid by the arm's-length third-party purchaser at essentially the same time as the transactions in question. As a result, there was **no basis** for the **TCC's finding** that the **taxpayer** had **received a premium above FMV**.

whether there truly was a premium

The TCC had also relied on the **parties' coordinated transactions** and the **taxpayer's knowledge** that Abacus **intended to undertake tax planning** to conclude that they were not dealing at arm's length. The FCA distinguished an earlier case (see VTN [506\(7317\)](#)) where the parties had agreed to share amounts that otherwise would have been available to pay the purchaser corporation's tax liability. In this case, there was **no evidence** that the **taxpayer** and **Abacus** had **agreed to share the unpaid taxes**.

The FCA also **rejected** the TCC's concern that the taxpayer was **wilfully blind** because it did not investigate Abacus' tax planning. Without evidence that the taxpayer was participating in a plan to benefit from the unpaid taxes, an otherwise arm's-length vendor had **no obligation to investigate its counterparty's tax planning or tax compliance** in order to remain at arm's length. The FCA therefore concluded that the parties were **dealing at arm's length**. As Section 160 does not apply to transfers between arm's-length parties, Section 160 did not apply.

Taxpayers win – FMV consideration

The FCA also considered a second reason why **Section 160 would not apply**: the taxpayer had provided **FMV consideration** for the **amounts it received**.

The TCC had concluded that a promissory note and preferred shares given up by the taxpayers had a nil FMV, in part based on what would happen to the intermediary corporation after the transactions were completed. The FCA held that this approach was inconsistent with the established Section 160 principle that **FMV must be determined** using a “**snapshot**” **at the time of the transfer**. Subsequent events cannot be used to retrospectively eliminate the value of consideration that existed when the transfer occurred.

the FMV at the time of transfer

Taxpayers win – GAAR

The FCA concluded that there was no avoidance transaction, and even if there was, there was **no misuse or abuse of Section 160**. The purpose of Section 160 is to protect the Crown where property is transferred between **non-arm's-length persons** for **inadequate consideration**. Here, the taxpayer and the Abacus group were **dealing at arm's length** and the **taxpayer provided full consideration** for the payments it received. The transactions therefore did not frustrate the object, spirit and purpose of Section 160, and **GAAR did not apply**.

whether the object, spirit and purpose of the provision was frustrated

7 Corporate Tax

542(7)

TAXABLE PREFERRED SHARES (TPS)

Part IV.1 (Sections 187.1 to 187.61) and VI.1 (Sections 191 to 191.4) taxes apply to certain **dividends paid or received by Canadian corporations**. These provisions are **seldom relevant** to **owner-managed businesses**, making them a **trap** on those infrequent occasions where they apply. The stated objective of these taxes is to make the tax system more neutral between debt and preferred share financing. See VTN [423\(3052\)](#) for further details on these taxes that can apply to the dividend recipient (10% of dividends received, Part IV.1 tax) or to the dividend payer (up to 40% of dividends paid, Part VI.1 tax).

The following **three exceptions** typically relieve owner-managed businesses from these taxes:

- **Excluded dividends** (defined in Subsection 191(1)) – Dividends paid to a shareholder that has a substantial interest (Subsection 191(2)) in the corporation when the dividend was paid are excluded dividends and not subject to this tax. A **shareholder** has a substantial interest if they are **related** to the **corporation** at the time the dividend was paid. Alternatively, a shareholder may have a **substantial interest** where they hold shares that account for **all** of the following:

- at least **25% of all votes**;
- at least **25% of the value** of all issued shares; and
- at least **25% of all shares other than TPS**.

For these purposes, a shareholder is deemed to own shares owned by persons related to them. The determination of votes and value is detailed and should be carefully reviewed in determining whether this test is met.

- **Dividend allowance** (Subsections 191.1(2) to (6)) – Only dividends over the dividend allowance are taxable. The allowance is **\$500,000**, shared within an associated group and reduced where over \$1 million of dividends on TPS were paid in the preceding calendar year.
- **Deemed dividends** (Subsection 191(4)) – The tax does not apply to deemed dividends arising on a **share repurchase** or redemption where the share rights **specify an amount** in respect of the share, for which it is to be **redeemed** and that specified amount **does not exceed** the **consideration** paid for the shares.

While these exceptions are helpful in many cases, Part IV.1 and VI.1 tax can still arise in the context of owner-managed businesses.

For example, an **estate freeze** may be conducted with five **unrelated parties**, each getting an equal (20%) portion of the corporation. As each person is **unrelated** to the subject corporation and **falls short** of the **25% threshold**, the first exception is unavailable. Barring access to another exception, these **taxes could apply** to the dividend payer and recipient.

As another example, an **estate freeze** where all the **preferred shares** go to the **founder** and all the **common shares** go to a **family trust** could be problematic if the founder and the trust are not related. For example, is there **sufficient value** in the **common shares** at the time of the freeze to reach the 25% threshold? Likewise, are there **sufficient voting rights** provided to each group of related shareholders?

A June 2026 Tax for the Owner-Manager article (**Navigating Part VI.1 Tax Pitfalls**, Dino Infanti) discussed several scenarios where the **taxes may apply**, including the following:

reviewing the requirements for this exception

de minimis threshold for dividends

risk of these taxes in estate freezes with larger shareholder groups

a careful review to ensure that an exception applies

- **Estate freezes** and other **corporate reorganizations** require a careful review to ensure that **exceptions** remain available **throughout** the **transactions**, as steps in a reorganization, share exchanges or transfers on death may **eliminate exceptions**. The article specifically noted that the **substantial interest** requirements are **much narrower** for **partnerships and trusts** than for other taxpayers. The article also highlighted **blended families** and **unrelated executors** carrying **higher risks**.
- **Stock dividends** create shares **ineligible** for the **deemed dividend** exception as the shares are **not issued for consideration**.
- **Common shares** with **restrictions** on dividend rights or liquidation entitlements are also **subject** to this **tax**. Examples of such restrictions include the following:
 - **unanimous shareholder agreements** that restrict dividend entitlement or **require** share **sales** at **set values**;
 - shares carrying **priority rights** on **liquidation** (even a small priority such as a \$1 priority over other common shares); or
 - **tracking shares** whose dividend or redemption **rights** are **linked** to **specific assets**.

a careful review for Part VI tax exposure at all stages of the tax plan

whether there are restrictions on common share rights

8 CRA

542(8)

LATE OBJECTION – EVIDENCE OF MAILING

A **notice of objection** is required to be filed within **90 days** of the **date of** the applicable **assessment** (Subsection 165(1) and Excise Tax Act Subsection 301(1.1)). The **assessment** is **deemed** to have been **made on the date** that it was **sent** (Subsection 244(15)). As such, many disputes focus on whether, in fact, the assessment was sent (either by mail or electronically; Subsection 244(14)) by CRA. Where this deadline is missed, a taxpayer can **apply for an extension** to file a notice of objection within **one year** of the original deadline to file it (Paragraph 166.2(5)(a) and Excise Tax Act Paragraph 303(7)(a)). Where **CRA refuses** to allow the extension, their decision can be **reviewed by the courts**. A **Tax Court** appeal is **only possible** if a notice of objection was properly filed.

An August 12, 2026 **Tax Court of Canada** case ([Ducharme Estate vs. HMK, 2025-2127\(IT\)G](#)) considered whether **notices of reassessment** were validly mailed. The taxpayer had **filed** notices of **objection** on **April 24, 2025** and subsequently **appealed to Tax Court** (Subsection 169(1)) 90 days after the objections were filed. **CRA argued** that the notices of **reassessment** were sent on **March 17, 2023**, the date on the notices. The **taxpayer** argued that they were **not sent** prior to **March 3, 2025**, the day that **copies** were **mailed** in response to a **request** from the **taxpayer's representative**.

Taxpayer wins

The **taxpayer's evidence** indicated that the **trustee of the estate** maintained **organized files** of mail received at her personal residence, the **estate's mailing address**, and consistently **provided copies** to their **professional advisors** on a timely basis. **Notices of objection** had previously been filed in respect of **related reassessments** (the "primary assessments") issued on **March 7 and 8, 2023**, which had been appealed to the Tax Court in April 2025. The reassessments addressed in this case assessed multi-million-dollar **penalties** for failure to file T1134 and T1135 foreign reporting forms **related** to the matters reassessed in the primary assessments. Although there had been **ongoing communication** between **CRA** and the taxpayer's **professional representatives** on the **primary reassessments** since March 2023, the **penalty assessments** were **not mentioned** before January 2025.

organized recordkeeping and diligently addressing tax issues can help support the assertion that CRA correspondence was not received

The court noted that **CRA must prove** that the **reassessments** were **mailed, regardless** of when or **whether they were received**. After a **detailed review** of four **affidavits** from various CRA agents describing **printing and mailing processes**, the court noted that CRA had **definitively shown** that the notices of **reassessment** had been **printed**. However, after printing, the **tracking trail ended**. CRA's **processes** included summary **batch headers** for envelopes to be mailed out, but they were **unable to produce** a batch header reflecting these **specific reassessments**. The **absence of direct evidence** of the **mailing** of the reassessments was a **key gap** in CRA's records.

By contrast, the **organized records** and **timely steps** taken by the **taxpayer** and their **representatives** in respect of **all other CRA communications** demonstrated that they had **not received** the penalty assessments on a date **consistent with their printing**. It was therefore **more likely than not** that the reassessments had **not been mailed**. The **objection deadline** was therefore properly **measured** from March 3, 2025, the **date** that **copies** were **mailed** to the taxpayer's representative. The court therefore ruled that the **objections** were **timely filed**, allowing the Tax Court appeal to proceed.

requesting CRA provide evidence of mailing where an assessment has not been received

ONLINE MAIL – EXTENSION OF TIME

An August 17, 2026 **Federal Court** case ([Yang vs. AGC, T-4009-25](#)) reviewed an application for **judicial review** of CRA's **refusal** to undertake a **second review** of a taxpayer's claim for personal COVID-19 benefits. The taxpayer had **requested online mail** shortly before CRA **denied** his **eligibility** after their **first review**. Three letters, one for each program under which benefits were claimed, were **posted** on **June 16, 2022**. The taxpayer **requested a second review** on **January 12, 2024**, almost **eighteen months** after the **30-day period** allowed for such requests had **expired**. The **taxpayer argued** that he had **read the letter** on **December 22, 2023** and should therefore be considered to have made a **timely request** for a second review.

Taxpayer loses

The court noted that the taxpayer had **no authorized representative**. CRA testified that they **record each time** a letter posted to MyAccount is **accessed**. Their records indicated that the **first review letter** had been **accessed** on **July 14, 2022**, December 22, 2023, January 12, 2024 and October 6, 2025.

CRA's knowledge of each time electronic correspondence is accessed

The **taxpayer stated** that he might have **accessed MyAccount** on July 14, 2022, but was **not used to** reading letters on screen, and either **did not open** the letters or **could not read them** properly. He therefore **only learned** about their **content** on December 22, 2023, so he argued that the 30-day period should start then. The court noted that the **time limit** runs from the objective date of **delivery**. Delaying opening **physical or electronic mail** does **not delay** the expiry of **deadlines** for taking action. It was **reasonable** for CRA to **deny a second review** on the basis that the taxpayer had provided **no reasonable explanation** for the delay in requesting a second review.

opening and responding to mail in a timely fashion

The court also awarded **\$600 of costs** against the taxpayer. He had argued that he had **limited income**, and the court provided **six months** to pay the costs.

REQUIREMENT TO PAY

An August 18, 2026 **Tax Court of Canada** case ([Dejifasanya vs. HMK, 2018-1343\(IT\)G](#)) reviewed a **requirement to pay** issued to a **real estate lawyer** in respect of a **client** who was a **tax debtor**. The **lawyer** acted for the **joint owners** of a property and became aware of a **lien** registered by **CRA** in respect of **\$12,633 of GST owing** by one of the owners. **CRA confirmed** that they would **discharge** the **lien** on payment of that amount. CRA's seven-page fax confirming this **also included a requirement to pay** (RTP; Subsection 224(1)) any amounts payable to the tax debtor, **not to exceed \$144,675**, in respect of **arrears income tax**.

On sale of the property, the lawyer **paid the lien amount** as well as a bank mortgage, leaving **\$537,152** that she **paid to the tax debtor**, the 99% owner, in accordance with the joint owners' instructions. The **tax debtor** subsequently went **bankrupt**, and CRA **assessed the lawyer** for the unremitted \$144,675 (Subsection 224(4)).

potential liability when a requirement to pay is not followed

Taxpayer loses

The court reviewed **several arguments** advanced by the **lawyer**.

She was **not correct** that **payment of the lien** was sufficient. It was clear from CRA's correspondence that the **lien amount** was **separate** from the **RTP**. Further, **payment** of the **lien** did **not reduce** the amount payable under the **RTP**. As well, the **RTP** specifically referred to **income tax debts** while the **lien** was known to be a **GST debt**.

the possibility of multiple liabilities to remit funds to CRA

The fact that she held the **sale proceeds** under **trust conditions** for the **joint owners** did **not protect** the lawyer from the RTP. Once she was **instructed to remit payment** to the **tax debtor**, she was **liable to make a payment** to the **tax debtor**, and such a payment can be subject to an RTP. Such legal obligations can **go beyond debtor-creditor arrangements**.

any legal obligation to pay the tax debtor is subject to an RTP

Finally, the lawyer argued that she had exercised **due diligence** and should therefore **not be liable**. The court first concluded that it was **unable** to find that the lawyer was **duly diligent**, noting that **CRA's** correspondence had **identified two items**, being the lien amount and the RTP, and that the lawyer did **not seek clarification** from CRA regarding the requirements. The court then opined that there was **no due diligence defence** against failure to comply with an **RTP**. Such a defence might apply to an **administrative penalty provision**, but **not to a tax collection provision** such as an RTP.

no due diligence defence against an RTP

MORTGAGE HOLDERS PETITION TAX DEBTOR INTO BANKRUPTCY

An August 11, 2026 **Ontario Superior Court of Justice** case ([Lewis vs. Mauricio, 2026 ONSC 4638](#)) reviewed an **application** to have an **individual, M, declared bankrupt**. The application was filed by **secured creditors** holding a **mortgage** on her **rental property**. **CRA** had registered a **lien** against this property. M argued that she had **sufficient assets** but **required time to resolve outstanding tax debts**.

The **creditors** wanted M declared **bankrupt** as this would place their **secured claims** in a position of **priority** over **CRA's claims**, as an **unsecured creditor**. CRA had been served with the bankruptcy application but did not respond.

the impact of tax arrears on the claims of other creditors

Debtor loses

The court examined the **technical requirements** for a successful **application** to place an individual into **bankruptcy**, noting that the **real question** was whether M had **"ceased to meet her liabilities generally as they become due"** (Bankruptcy and Insolvency Act Paragraph 42(1)(j)). M's **accountant testified** that they were preparing a **voluntary disclosure** for unfiled tax returns for M's **corporation**, a **relief application** in respect of **penalties and interest** assessed to M and an **adjustment request** for **four years of HST returns**. He also testified that her **real estate assets** had a value **significantly greater** than her liabilities.

The court noted that **appraisals promised** as long as a year previously had **not been provided** and there were **no submissions** in respect of the **additional time** required to complete **tax filings and negotiations with CRA**. Meanwhile, the **creditors** would **wait indefinitely** for payment on their **loans** that **went into default** in October 2023, with **no payments** since December 2024. M's **failure to pay** both the **mortgage** and her outstanding **tax balances** demonstrated that she had **ceased to meet her liabilities**.

even if CRA will wait, other creditors may not

generally **as they become due**. M was adjudged **bankrupt** and the **trustee** requested by the creditors was **appointed**.

NOTIFIABLE TRANSACTIONS – DISCLOSURE REQUIREMENTS

Certain persons are required to file **Form RC312 Reportable Transaction and Notifiable Transaction Information Return**, in respect of **notifiable transactions**, which are transactions or a transaction in a series that is the **same** as, or **substantially similar** to, a transaction **designated** by the Minister (see VTN [508\(7404\)](#); definition of notifiable transaction in Subsection 237.4(1)).

monitoring transactions designated as notifiable

A June 2, 2026 **Technical Interpretation** ([2026-1088411C6](#), Mei Ng) discussed **whether** a particular situation would **trigger** an **information form filing requirement**.

A transaction involving an **indirect transfer of trust property** to a **non-resident** through the use of a **Canadian-resident corporate beneficiary** to **avoid** or **defer** the **21-year deemed rule** (Subsection 104(4)) or to **avoid** the rules regarding **dispositions to non-residents** (Subsections 107(5) and 107(2.1)) even though the property continues to be held, directly or indirectly, by a trust or by a non-resident beneficiary is notifiable ([NT-2023-02](#)).

CRA was asked whether the following situation would trigger a filing requirement. A **family trust** was **settled** with **beneficiaries** that **include Canadian corporations owned** by one of the **named individual beneficiaries**. At the **time of settlement**, there is an identified **possibility** that this **individual** may become a **non-resident of Canada** in the future.

CRA opined that **no person** had yet **entered into**, or **become contractually obligated** to enter into, a transaction, or transaction in a series, that is the **same** as, or substantially similar to, the **designated transaction** or designated series at the time of the trust's settlement. At the time of settlement, there was **only a possibility** that a **beneficiary may later become non-resident**. That **possibility** on its own did **not establish** that a **notifiable transaction** had been entered into, nor did it contractually obligate any person to enter into one. As a result, **no RC312 filing** would be **required** solely because the trust was settled under these circumstances.

the possibility of a transaction becoming the same or similar as a designated transaction does not trigger a filing requirement

9 Estate Planning

542(9)

BARE TRUST REPORTING

An August 20, 2026 Miller Thomson article ([Bare trust reporting in Canada: Where the rules stand, which arrangements are caught, and who must file for 2026](#), Perry Kiefer, CPA, CA, TEP, Kathryn Walker and Carolyn S. Inglis) provided guidance on whether disclosure would likely be required for **14 common arrangements** and relationships, such as joint accounts with adult children, in-trust-for accounts for children and situations where a person is on title to property beneficially owned by another person (see Appendix B, VTN [542\(8966\)](#), for a listing of the arrangements and the authors' comments on them). Many of the arrangements that remain reportable are business- rather than personal-focused. In addition, many of the arrangements that are potentially caught depend on whether the value of the assets at any point of the year exceeds \$50,000. See VTN [529\(8377\)](#) and the VTN [T3 Trust Filing – Quick Reference Chart \(QRC\)](#) for the basic framework for T3 filing obligations.

In preparation for the filings due March 31, 2027, the **article recommends** the following **actions**:

- **take inventory** of arrangements to determine exposure;
- confirm and **document characterizations**;
- **evaluate** each arrangement to determine **filing obligations**;
- **obtain** trust account **numbers** and collect beneficial ownership **information**;
- consider **terminating redundant arrangements** (although this would not avoid a 2026 filing requirement); and
- **monitor** for further developments.

consider which types of arrangements will require disclosure

UNUSED TFSA CONTRIBUTION ROOM AT DEATH

A June 3, 2026 **Technical Interpretation** ([2026-1099671E5](#), Phillip Kohnen) considered whether a **surviving spouse** who becomes the **successor holder** of a deceased spouse's TFSA **inherits** the deceased's **unused TFSA contribution room**. CRA concluded that **TFSA contribution room** is specific to **each individual** and **cannot be** inherited or **transferred** to a successor holder. Although a surviving spouse who qualifies as the successor holder (Subsection 146.2(1)) acquires the deceased holder's rights under the TFSA arrangement, including the contractual right to make contributions, the amount the survivor may contribute without adverse tax consequences is **governed** by the **survivor's own unused TFSA contribution room** (Subsection 207.01(1)). As an example, prior-year TFSA withdrawals generate new contribution room only for the individual who was the holder when the withdrawal occurred.

using all contribution room prior to passing

FIRST HOME SAVINGS ACCOUNT (FHSA) – PURCHASE BUT NO WITHDRAWAL

A May 14, 2026 French **Technical Interpretation** ([2025-1054171E5](#), Catherine Ayotte) considered whether **acquiring a qualifying home without** taking a **qualifying withdrawal** would end the FHSA's maximum participation period, restrict subsequent contributions or affect transfers to an RRSP or RRIF.

CRA concluded that **acquiring** a qualifying home does **not**, by itself, **end the FHSA's maximum participation period** (this term and the other terms below are defined in Subsection 146.6(1)). That period ends at the end of the year following the year in which the first specified event occurs: the 14th anniversary of opening the taxpayer's first qualifying FHSA arrangement, attaining age 70 or making the taxpayer's first qualifying withdrawal. It is **not triggered** simply by **acquiring a qualifying home**. As such, the taxpayer can **retain the FHSA** and, subject to the annual FHSA limit, continue **making contributions** during that period.

the plan may remain open and available for contribution

However, purchasing and occupying the home **can affect** the individual's **ability** to make a **future qualifying withdrawal**. If the individual **later** wishes to acquire another qualifying home and **withdraw FHSA funds** tax-free, they must **again satisfy** the **conditions** in the definition of qualifying withdrawal. This includes the applicable **first-time home buyer** requirement. Generally, during the portion of the calendar **year before** the **withdrawal** and throughout the **preceding four calendar years**, the individual must **not have owned and occupied a home** as their **principal place of residence**. Accordingly, if the individual continues to own and occupy the first home during the relevant look-back period, they will generally **not satisfy this condition**.

although the plan may stay open, the taxpayer may not be able to make a qualifying withdrawal

Before the end of the **maximum participation period**, FHSA **property** that is not an excess FHSA amount can be **transferred** directly to the individual's **RRSP or RRIF** tax-free without using or otherwise affecting the individual's unused deduction room (Subsections 146.6(7) and (8)). Having acquired a qualifying home without making a qualifying withdrawal would **not affect** access to this transfer.

FHSA property could still be transferred tax-free to an RRSP or RRIF

RRSP – DESIGNATED BENEFICIARY

A June 2, 2026 **Technical Interpretation** ([2026-1089011C6](#), Todd Baldwin) discussed the **implications** of an **RRSP** passing to a **designated beneficiary outside** of the **estate** of a **deceased taxpayer**. CRA confirmed that the **full value** of the **RRSP** at the **date of death** would be **taxed to the deceased** (Subsections 146(8) and (8.8)), outside of **limited exceptions** for refunds of premiums (most common where the RRSP passes to the deceased's surviving spouse; see VTN [467\(5363\)](#)). As a result, the **designated beneficiary** would receive the **full value** of the **RRSP** and the

the tax liability would be separate from the RRSP funds

tax cost would be borne by the **estate**. CRA noted that the **recipient** of the **RRSP** would be **jointly and severally liable** for the taxes payable on the value of the RRSP (Subsection 160.2(1)) but the taxes would be **payable** by the **estate**.

In the example reviewed by CRA, the deceased's **former spouse** was the **designated beneficiary** of their **RRSP**, while their **children** from another relationship were the **beneficiaries** of the **estate**. As a result, the **children** would bear the **tax cost** related to the RRSP.

the potential tax inequities where careful planning is not undertaken for blended families

Editors' comment

Although not discussed in the interpretation, the rules for RRIFs would have similar results.

ADVANTAGE TAX – DUE DILIGENCE DEFENCE?

If an **advantage** is extended to, or is received or receivable by, the **controlling individual** of a **registered plan** (such as a TFSA or an RRSP), the **plan itself** or **any other person not dealing at arm's length** with the controlling individual, an **advantage tax** applies (Section 207.05). The tax is **100%** of:

- the **fair market value** of the **benefit** (in the case of a benefit);
- the amount of the debt (in the case of a loan or other indebtedness); and
- the amount of the registered plan strip (in the case of a registered plan strip).

Liability to pay the tax lies with the **controlling individual**, unless the advantage was extended by the issuer, carrier or promoter of the registered plan (or a person not dealing at arm's length with them), in which case, the tax is payable by the issuer, carrier or promoter.

CRA can **waive** or cancel all or part of the **tax** when it is **just and equitable** to do so (Section 207.06) and **must consider** the following three circumstances to make such a determination:

- whether the tax arose as a consequence of **reasonable error**;
- the **extent** to which the transaction or series of transactions **also gave rise to another tax**; and
- the **extent** to which **payments** have been made **from** the person's **registered plan**.

A May 7, 2026 **Federal Court of Appeal** case ([Hunt vs. HMK, A-140-22](#)) found that the **advantage tax is a tax** and **not a penalty** and thus the **due diligence defence is not applicable**. The court also noted that the **100% tax rate is proportional** to the **generous treatment** offered under the TFSA regime and thus cannot be characterized as a penalty. The court further found that this tax and CRA's discretion to waive some or all of the tax was

no due diligence defence for advantage tax

not unconstitutional.

RETIREMENT COMPENSATION ARRANGEMENT (RCA) – STRIPPED BOND INVESTMENT

An **RCA** is a type of **employer-sponsored** arrangement that generally allows an employer to provide supplemental pension benefits to employees. A **50% refundable tax** (Subsection 207.5(1)) is imposed on the **contributions** to the plan **and** any **income** and **gains earned or realized by the plan**. The tax is generally refunded as the **taxable retirement benefits** are **paid** to the **employee**.

In a June 4, 2026 **Technical Interpretation** ([2023-0991701E5](#), Phillip Kohnen), CRA opined that the **interest accrued** annually on a **stripped bond-type** investment is included in **income** and subject to the 50% refundable tax for that taxation year.

Although a **stripped bond** is not defined in the legislation, this type of investment property will **yield interest income** annually even though **payment is received at the maturity of the bond** (see VTN [535\(8625\)](#)). CRA confirmed that the stripped bond would likely be considered an **investment contract**, so accrued interest income is taxable annually (Subsection 12(4) and 12(11) and Regulations Paragraph 7000(1)(b)). CRA confirmed that there is **no exception** to this rule, even if the RCA has **insufficient liquid funds** to pay the tax liability. Any **additional contributions** to the RCA to **fund the tax** would **also be subject** to the **50% refundable tax** in the year the contribution was made.

tax attributes of certain investments may result in additional contributions to an RCA

10 Relationship Breakdown

542(10)

ELIGIBLE DEPENDANT – CHILD SUPPORT PAYABLE

An August 20, 2026 **Tax Court of Canada** case ([Zalesskiy vs. HMK, 2026-970\(IT\)1](#)) reviewed whether the taxpayer was entitled to the **eligible dependant credit** (Paragraph 118(1)(b)) for the taxpayer's **son**. Generally, **no claim** can be made for a dependant if the **taxpayer** is **required to pay child support** (Subsection 118(5)). The taxpayer asserted that his spousal and **child support obligation** under an earlier **interim consent order** had been **superseded** by an **oral agreement** under which the **parents** lived **separate and apart** under the same roof **with their child**, contrary to the earlier order's assumption that their son resided primarily with his estranged spouse.

Taxpayer loses

The court expressed some doubt as to why an estranged spouse would surrender her right to receive support based solely on a verbal commitment. However, even if she had, this **oral agreement** would have **no effect** on the **taxpayer's legal obligation to pay support** as set out in the consent order. **Absent variation** by the **issuing court**, the **requirement to pay support remained in effect**. This ongoing **requirement precluded a claim** for his son as an **eligible dependant**.

obtaining a variation of the court order if agreement is reached on a different arrangement

DISABILITY TAX CREDIT (DTC) TRANSFER – SHARED CUSTODY

An August 12, 2026 **Tax Court of Canada** case ([Reiser vs. HMK, 2025-1598\(IT\)](#)) considered whether a **shared-custody parent** could claim part of her **child's transferred DTC** for 2022. The taxpayer's **ex-spouse** had **claimed** both the **eligible dependant credit** ("EDC") and the **full unused DTC** transferred from the child.

Taxpayer loses

The court found that the **taxpayer was not eligible** to receive the transfer as the situation did **not satisfy** the requirements for any of the possible options (Subsection 118.3(2)), which **involve the EDC or Canada caregiver credit** ("CCC"). Where one parent is entitled to and claims the EDC in respect of the child, the other parent is prohibited from claiming the transferred DTC (Paragraph 118(4)(b)). In addition, where an individual is entitled to the EDC for a person, another cannot claim the CCC in respect of that same person (Paragraph 118(4)(c)).

who claimed the eligible dependant credit

The court did **not determine** whether the **ex-spouse** was actually **entitled to the EDC**. The evidence suggested that he may have remarried, which caused the court to question his eligibility; however, he was not a party to the appeal and the issue was therefore not before the court. For purposes of this case, the court simply found that the **ex-spouse had claimed the EDC** and therefore the **taxpayer could not claim** the transferred DTC.

The court noted that **where neither parent claimed the EDC**, there is a relieving rule that could make both eligible; however, that was **not applicable in this case** (Subparagraph 118.3(2)(a)(ii)). If both parents were eligible to receive the DTC, they could decide on who would get what portion of it (Subsection 118.3(3)). CRA would make the decision where the parents cannot agree.

11 International

542(11)

US TAX CREDIT AGAINST INVESTMENT TAX

An August 31, 2026 **US Court of Appeals for the Federal Circuit** case ([Estate of Paul Bruyey vs. US, 2025-1563](#)) **overturned the lower court's decision** (see VTN [522\(8094\)](#)) regarding the availability of a **foreign tax credit** for foreign taxes paid against the taxpayer's **net investment income tax** (NIIT).

The taxpayer **resided in Canada** and was **taxable in the US** on his **worldwide income**, including the **NIIT** that imposes an additional 3.8% tax on investment income exceeding specific thresholds.

The taxpayer sold a real estate investment in Canada, triggering NIIT in the US. The taxpayer **claimed a foreign tax credit** under **Article XXIV of the Canada-US Tax Treaty** for the Canadian taxes paid to **offset** his regular US tax liability and the **NIIT** even though the **US tax law** does **not** explicitly **provide** for a **foreign tax credit** against **NIIT**. The **IRS denied the foreign tax credit** in respect of the **NIIT**; however, the **lower court allowed the claim**, citing the overall principles of double taxation and the Canada-US Tax Treaty.

Taxpayer loses

The appeals court **further considered the Canada-US Tax Treaty** and **agreed with the IRS** that **no foreign tax credit** is available to **apply against NIIT**. As a result, the Canadian taxes in excess of regular US income tax generated no relief from the NIIT.

*no treaty relief from
double taxation on NIIT*

FOREIGN TAX CREDIT (FTC) – US WITHHOLDING TAX

In a May 13, 2026 **Technical Interpretation** ([2026-1098321C6](#), Gina Yew), a **US resident corporation redeemed shares** held by a **Canadian resident corporation** resulting in a **taxable dividend for US tax** purposes that attracted a 5% **withholding tax**. The redemption proceeds were treated as **proceeds of disposition** resulting in a capital gain for **Canadian tax** purposes (redemption amount of foreign affiliate is proceeds of disposition (Section 54), assuming that no election was made under Subsection 93(1) to treat the gain as a dividend). The Canadian corporation owned all the shares of the **US resident corporation** such that it was a **foreign affiliate** before and after the repurchase. CRA stated that the availability of **foreign tax credit** (FTC, Subsection 126(1)) in respect of the 5% withholding tax remitted by the US resident corporation **depended** on the **specific facts**.

A taxpayer can claim an **FTC** against tax otherwise payable, in respect of tax paid for the year to another country. The **FTC cannot exceed the tax payable** in respect of the **taxpayer's "qualifying incomes ... from sources in that country."**

foreign tax credit only available in respect of qualifying income from sources in the foreign country

CRA stated that as all of the **repurchased shares** were **deemed** to be a **dividend** and **taxable** in the **US**, the **gain** realized on the **disposition** of the repurchased shares would be **deemed** to **arise** in the **US** for the purpose of Article XXIV (elimination of double taxation) of the Canada-US Tax Treaty.

However, an **FTC is not available** for corporations on **foreign tax** that can "reasonably be regarded as having been **paid** by the taxpayer in respect of **income from a share** of the capital stock of a **foreign affiliate** of the taxpayer" (Paragraph 126(1)(a)). CRA noted that the **objective** of this exception is to **prevent** a taxpayer from **claiming relief** from double taxation **twice** on the same source of income (once in the form of a deduction under Subsection 113(1) and also in the form of a foreign tax credit under Subsection 126(1)).

not all foreign tax payable may be eligible for a foreign tax credit

CRA stated that the surplus pools of a US corporation (see VTN [467\(5371\)](#) for a basic discussion) that are **relevant** for **determining deductions** to the Canadian resident corporation (Subsection 113(1)) might incorporate elements of current and accumulated earnings and profits as determined under the US tax rules. Should the **repurchase proceeds** be **taxed** in the US as a dividend to the **extent** of the **US corporation's current and accumulated earnings and profits**, the exception would likely apply and thus **no FTC** would be available. As such, the **availability** of an **FTC** is made on a **case-by-case basis**.

determining the Canadian tax consequences requires understanding the US tax rules

US TREATY – NON-DISCRIMINATION

A July 17, 2026 **Tax Court of Canada** case ([Northcut vs. HMK, 2024-1973\(IT\)](#)) reviewed a taxpayer's claim for benefits under a **tax treaty**. The specific case addressed a **US citizen resident in Canada** receiving **pension income** from the **US**. The **Canada-US Tax Treaty** provided for any **portion** of the **pension exempt** from **US tax** to **also be exempt** from **Canadian tax** (Article XVIII(1) of the treaty; deducted from taxable income under Subparagraph 110(1)(f)(i)).

The **IRS** had issued a **rulings letter** confirming that, for **US tax** purposes, the taxpayer was **taxable** on the annuity **benefits received less** the historical **employee contributions** to the plan. **No reduction** was available for historical **employer contributions**, which were not taxable when contributed. On this basis, **CRA agreed** that an **equal deduction** was available for **Canadian tax** purposes.

If the taxpayer were **not a US citizen**, a **further reduction** would apply for **US tax purposes** in respect of the **employer contributions**, which were double the employee contributions. CRA had agreed that a **non-US citizen**

pension income not taxable in the US is also not taxable in Canada

resident in Canada and receiving such a pension **could deduct this further reduction**, as that amount would not be subject to US taxation. The **taxpayer argued that this further reduction was also available for Canadian tax purposes**, despite **not applying for US tax purposes**.

The **Treaty** includes a **non-discrimination** clause (Article XXV(1)) that provides that a **citizen** of one of the countries **shall not** be subject to any **taxation** by the **other country** that is **more burdensome** than the taxation applicable to **citizens** of that **other country** in the same circumstances. The taxpayer argued that this **required Canada** to allow the **same deduction for all Canadian residents**, **regardless** of whether they were **US citizens**. That is, the deduction related to the **employer contributions** should be allowed despite the fact that this amount was taxable for US tax purposes due to the taxpayer's citizenship.

Taxpayer wins

After extensive analysis, the court concluded that **taxation of a US citizen resident in Canada could not be more burdensome than taxation of a Canadian resident** who was **not a US citizen**. As the taxpayer was **only taxable** on the income related to **employer contributions** because he was a **US citizen**, **Canada could not impose tax** on that amount. In other words, the **Canadian tax could not be more burdensome to a US citizen**, despite the US tax being more burdensome to US citizens in the same circumstances.

whether the Canadian tax result differs for US citizens

TRANSFER OF FOREIGN PLAN TO AN RRSP

A June 8, 2026 **Technical Interpretation** ([2023-0991801E5](#), Phillip Kohnen) concluded that a **rollover to an RRSP** would **not be available** to a transfer of **funds** from a Luxembourg **old-age pension contract** (contrat de prévoyance-vieillesse). This is broadly a retirement savings plan that allows for the taxpayer to make tax-deductible contributions within certain limits.

To be eligible for a deduction (Subparagraph 60(j)(ii)), the contract must meet the definition of a **foreign retirement arrangement** (defined in Subsection 248(1)). Currently, **only certain IRAs are foreign retirement arrangements** (Regulations Section 6803). The Luxembourg arrangement also would **not be a foreign pension plan** and would **not be eligible for a rollover to an RRSP** (Subparagraph 60(j)(i)) as the plan was **not funded by an employer** (see VTN [446\(4304\)](#)).

a foreign plan rolled over to an RRSP must be a foreign retirement arrangement or foreign pension plan

Editors' comment

[Bill C-31, Budget 2025 Implementation Act, No. 2](#), has proposed that US 401(k) accounts be foreign retirement arrangements (see VTN [538\(8763\)](#)).

INDIRECT VERIFICATION OF INCOME (IVI) – EXCHANGE RATE

A July 27, 2026 French **Court of Quebec** case ([Estate of Halwachs vs. QRA, 2026 QCCQ 3475](#)) considered the **reporting of foreign income** computed under an **indirect verification of income** assessment in **Canadian dollars**.

Based on prior court proceedings ([Estate of Halwachs vs QRA, 2024 QCCA 540](#)), the **taxpayer** was required to **report undeclared income** from **foreign bank accounts** for 2008, 2009 and 2010 using the **spot exchange rate on December 31** of each of those years. For the 2009 taxation year, Revenu Québec (RQ) calculated the **year-over-year change** in the foreign accounts in the **foreign currency** and then **converted the net change to Canadian dollars** using the 2009 year-end exchange rate. In contrast, the taxpayer argued that each **year-end balance** should **first be converted to Canadian dollars** using the applicable **year-end exchange rate**, with the **year-over-year change calculated afterward**. The taxpayer's calculation of **undeclared income** for 2009 was **\$18,039** whereas the **RQ assessment** was **\$465,041**.

conversion of foreign income under an indirect verification of income may have varying results depending on the methodology used

Taxpayer wins

The court **accepted the taxpayer's approach**, noting that, because Canadian tax obligations are determined in Canadian dollars, the relevant figures should be **converted to Canadian dollars before performing the comparison/calculation**.

12 GST/HST

542(12)

QUICK FLIPS – DEFINITION OF BUILDER

Determining whether the **sale of a residential property** (a property meeting the definition of a residential complex in Excise Tax Act Subsection 123(1)) is subject to GST/HST can be complicated. CRA has identified this as a **high-risk area** for non-compliance (see VTN [514\(7690\)](#)). One common situation often attracting CRA review is the **acquisition** of such a property followed by a **quick renovation** or rebuild and **resale**, sometimes referred to as a **quick flip**. If the taxpayer engaged in a quick flip meets the **definition of a builder**, they could be **required to collect** and remit **GST/HST** on the sale of the property.

A **builder** (defined in Excise Tax Act Subsection 123(1)) generally includes a person who, while **having an interest** in a **residential property**, **constructs** or substantially renovates the residential property (or hires someone to do so), or who **acquires an interest while** it is **under construction** or substantial renovation or, in certain circumstances, before it has been

whether the activities are undertaken in the course of a business or an adventure or concern in the nature of trade

occupied, generally for the **purposes of sale** or commercial leasing. An **individual will not be a builder** unless these activities are undertaken in the **course of a business** or an **adventure or concern in the nature of trade**.

Several recent cases applied the above concepts to determine whether specific taxpayers were required to collect GST/HST on quick flips.

Rebuild and sell

An August 25, 2026 **Tax Court of Canada** case ([Becker vs. HMK, 2019-2416\(GST\)G](#)) considered whether **GST/HST applied** to the sale of a newly constructed home. The taxpayer bought the property for \$567,000, demolished the existing house, constructed a new one, **listed it immediately** upon completion and **sold it** for \$1.745 million **within months**. In addition, the taxpayer's **explanation** for selling **changed over time**, and his claim that he wanted a **customized** residence was **difficult to reconcile** with his decision to leave most **design and construction decisions** to his **brothers-in-law**. The court found that the construction and sale constituted an **adventure or concern in the nature of trade**, such that the taxpayer was a **builder** and the sale was a **taxable supply**.

*if there was a quick sale
after purchase or
construction*

An August 13, 2026 **Tax Court of Canada** case ([Salehi vs. HMK, 2022-31\(GST\)G](#)) similarly found that two newly constructed homes were taxable supplies because the sales were **adventures or concerns in the nature of trade**. The taxpayer systematically **acquired, redeveloped and quickly sold** the properties in circumstances showing that **resale for profit**, rather than long-term personal or family use, was the intended purpose.

Secondary intention

An August 10, 2026 **Tax Court of Canada** case ([Asadi vs. HMK, 2022-2529\(GST\)G](#)) considered whether a rebuilt Toronto residence was sold in an **adventure or concern in the nature of trade**. The court found that **resale at a profit** was an **operating motivation** when the property was acquired. The court did not determine whether resale was the taxpayer's **primary motivation** or whether she also genuinely intended to occupy the property. It was sufficient that resale for profit was **at least a secondary intention**. The acquisition and subsequent sale therefore constituted an **adventure or concern in the nature of trade**, such that the taxpayer was a **builder** and HST applied to the \$3.845 million sale.

*whether profit was one of
the motivations for
acquisition*

The court's reasoning centred on whether the taxpayer had at least a **secondary intention to resell the property at a profit** when it was acquired, regardless of whether it was the taxpayer's primary or secondary motivation. In particular, the court noted the **rapid purchase** while the taxpayer's Toronto employment **prospects were uncertain**, the **absence of** a pre-purchase **inspection**, the subsequent **demolition and construction** of a substantially larger luxury residence, the property's **repeated listings** and the fact that the **taxpayer never occupied** it. The court also placed **little weight** on the taxpayer's evidence of **subjective intention** because of credibility and reliability concerns, including **inconsistent accounts** of her

intent for both the existing residence and another property and evidence suggesting that the taxpayer's parents, who financed virtually the entire project, effectively made the major decisions.

The court also **denied** a \$19,994 **input tax credit** claim on the real-estate commission. Although CRA had assigned the taxpayer a business number, that did **not** establish **GST/HST registration**. The court found that she was **neither registered** during the relevant period **nor required to register** because her only commercial activity was a real property sale **otherwise** than in the **course of a business**.

Abandoned substantial renovation

A September 1, 2026 **Tax Court of Canada** case ([2520356 Ontario Corp. vs. HMK, 2023-11\(GST\)G](#)) considered whether a corporate taxpayer could be a builder in respect of an **aborted renovation** such that the sale of property was subject to HST. The corporation bought a residence in 2018 **intending to substantially renovate** and **resell** it. It hired a contractor who gutted the property but **abandoned the project before** meaningful **reconstruction** occurred. The property was subsequently sold "as is." CRA reassessed on the basis that the **corporation was a builder** and, consequently, the sale did **not qualify** for the **residential-complex exemption** (Excise Tax Act Schedule V Part I Section 2).

whether the vendor was a builder

The court focused on **whether** the taxpayer had carried on a **substantial renovation**. A substantial renovation is generally the **renovation or alteration** of a building to such an **extent** that **all or substantially all** of the relevant existing building has been **removed or replaced** (Subsection 123(1)).

Although the corporation **originally intended to substantially renovate** and resell the house, the court concluded that the definition **required more** than just an intention. The contractor performed the demolition and removal portion of the work but **never proceeded to reconstruction**. The court reasoned that renovation **involves both removal and reconstruction**; demolition or gutting alone was insufficient. Accordingly, **no substantial renovation occurred**, the corporation was **not a builder** in respect of the property and the sale was an **exempt rather than taxable supply**.

substantial renovation requires more than demolition; it also requires reconstruction

SALE OF FARMLAND

An August 27, 2026 **Tax Court of Canada** case ([Solution Assur 3D Inc. vs. HMK, 2023-31\(GST\)](#)) considered whether a **transfer of farmland** from a corporation to its shareholders was an exempt supply. The corporation had **acquired vacant land** on September 30, 2015 for \$37,000 and began developing it for a **permaculture business** involving organic fruits and vegetables, including the construction of buildings. After the project was **abandoned in late summer 2016**, the corporation **sold** the property to its **two shareholders** for \$231,500 **without collecting GST**. CRA treated the sale as a taxable supply, while the taxpayer considered it exempt under the **farmland exemption** (Excise Tax Act, Schedule V, Part I, Section 12).

The farmland exemption can apply where a corporation **transfers farmland** to an **individual** who is a **shareholder** or related to the corporation. Among other requirements, immediately before the transfer, **all or substantially all of the corporation's property** must be **used in a commercial activity** that is a **farming business**, the **individual** (or specified family member) must have **actively participated** in operating that business and immediately after the transfer, the farmland must be for the **personal use** of the individual recipient or a related individual.

this exemption for transfers of farmland to a shareholder

CRA argued that the farming activity had not yet commenced, therefore **the property was not used in a farming business**. CRA also argued that the **personal-use requirement** was not satisfied.

CRA agreed that the corporation's commercial activities consisted of **mixed fruit and vegetable cultivation** and that permaculture is an agricultural activity. Although the farming **project had not reached maturity**, the court concluded that this did **not prevent** the activities from constituting a **commercial farming business**, considering the purpose and nature of the activities being undertaken. The court also found that the **personal-use requirement** and the other conditions for the farmland exemption had been satisfied. Accordingly, the court held that the **sale was an exempt supply**, eliminating the assessed GST on the sale.

whether the property was used in a farming business

13 Did You Know...

542(13)

UPCOMING COURSES

Tax Update 2026

There's still time to join us for our 42nd annual [Tax Update](#) seminar for a **practical and comprehensive review** of the **tax developments**, technical issues and administrative changes that will have the most impact **on owner-managed clients** and their advisors in the coming year.

preparing for the tax planning and compliance challenges that will shape 2026 and beyond

This 14-hour course will examine **legislative changes, CRA compliance initiatives**, planning **opportunities**, emerging **risks** and areas where **professional judgment** will be increasingly important. The many topics explored will include the complex new **dividend suspension rules**, the implementation of the **bare trust reporting** requirements and the latest **CRA projects and releases**.

Limited spaces are available for in-person and virtual live offerings.

Bare Trust T3 Reporting: Practical Guide & Examples

2026 T3 returns for bare trusts will be **due by March 31, 2027**. The revised legislation brings **new exclusions, new exceptions** and **new traps** for the unwary.

Joint bank accounts, in-trust-for accounts, family real estate arrangements and **lawyer trust accounts** are just some arrangements that require careful consideration. In this **two-hour** pre-recorded webinar, Caitlin Butler CPA, CA and Kenneth Keung CPA, CA, CPA (CO, USA), CFP, TEP, LLB, MTax explore these and other **real-world examples**, providing a **practical framework** for identifying potential **bare trust arrangements** and assessing **filing obligations**.

upgrading your bare trust filing knowledge before returns are due

Registrants will receive a **brandable client letter** that can be customized and distributed to clients as part of the trust reporting preparation process. Course **access** will also be **available** until **March 31, 2027**, allowing time to refresh knowledge as specific client situations arise, right through the filing season. For further information, click [here](#).

this tool for communicating the bare trust requirements to your clients to get ahead of the spring rush

Newbies to Ninjas: Corporate Tax

Training new tax staff? Let us take care of the corporate tax fundamentals.

Newbies to Ninjas: Corporate Tax, 12th Edition is a practical 3-hour online course that helps newer preparers turn tax theory into practical T2 preparation skills. We cover foundational owner-managed corporate tax issues, what to look for, what questions to ask and when a matter warrants further review. Combined with your firm's administrative processes, it provides a practical foundation for efficiently preparing new staff for T2 work. Click [here](#) for further details.

CONSULTING OPPORTUNITY

Would you enjoy **researching technical tax issues, writing practical content**, and helping accountants stay informed while **staying** active in **public practice**? Video Tax News is looking for a **Canada-based CPA** with at least **five years** of Canadian tax experience focused on **owner-managed businesses** to create **practical content** for Canadian tax professionals. This **remote, non-exclusive** independent contractor **engagement** averages **approximately 60 hours per month**, with workload varying around publication schedules. Check our [website](#) for further details, or to apply.

this opportunity to develop your research and writing skills working with the VTN team

14 Appendix

542(14)

APPENDIX A

Additional Video Tax News Resources and Recently Released CRA Publications and Forms

Video Tax News Resources

- [Video Tax News Members Portal and Newsfeed](#)
- [Video Tax News Members Portal – A How To Use The Portal Video Tutorial](#) (6 mins)
- [Portal & Newsletter Guide for Monthly Tax Update Users](#)
- [Status of Recent Tax and Benefit Proposals](#)
- [T3 Trust Filing – Quick Reference Chart](#)
- [Tax on Split Income \(TOSI\) – Quick Reference Chart](#)
- [Life in the Tax Lane – 10 Minute Monthly Podcast/Video](#)
- [Technical Interpretations](#)

CRA Guides/Publications

- [NEWS123](#) Excise and GST/HST News - No. 123
- [RC4231](#) GST/HST New Residential Rental Property Rebate
- [5-1](#) Direct Cost Exemption
- [NOTICE346](#) Ontario Enhanced New Housing Rebate
- [T4091](#) T5008 Guide - Return of Securities Transactions 2026

CRA Forms/Statements/Returns

- [T1-ADJ](#) T1 Adjustment Request
- [T3](#) Statement of Trust Income Allocations and Designations
- [NR4OAS](#) Statement of Old Age Security Pension Paid or Credited to Non-Residents of Canada
- [T1213](#) Request to Reduce Tax Deductions at Source
- [T1213OAS](#) Request to Reduce Old Age Security Recovery Tax at Source
- [TD1X](#) Statement of Commission Income and Expenses for Payroll Tax Deductions
- [T1090](#) Joint Designation on the Death of a RRIF Annuitant, PRPP Member, or ALDA Annuitant
- [T2019](#) Death of an RRSP Annuitant - Refund of Premiums
- [T5018SUM](#) Summary of Contract Payments
- [CPT20](#) Election to Pay Canada Pension Plan Contributions

APPENDIX B

Bare Trust Reporting: Common Arrangements

An August 20, 2026 Miller Thomson article ([Bare trust reporting in Canada: Where the rules stand, which arrangements are caught, and who must file for 2026](#), Perry Kiefer, CPA, CA, TEP, Kathryn Walker and Carolyn S. Inglis) provided guidance on whether disclosure would likely be required for various common arrangements and relationships identified and described in section 4 of the original article.

Items in the table and commentary below have been **extracted from the article** and **republished with permission** of the publisher. VTN Editors' comments have been inserted where applicable. For a video interview, see this VTN [web tip](#). See VTN [529\(8377\)](#) and the VTN [T3 Trust Filing – Quick Reference Chart \(QRC\)](#) for the basic framework for T3 filing obligations.

Miller Thomson noted that their article is provided as an information service and may include items reported from other sources. They do not warrant its accuracy, and further note that the information is not meant as legal opinion or advice.

An arrangement that is a bare trust, is not covered by a bare-trust exemption, and is not a listed trust will be required to file a T3 return and Schedule 15 for its 2026 taxation year by March 31, 2027. The filing requires a trust account number (which can and should be obtained in advance through the CRA's online request process), and the Schedule 15 disclosure covers every legal owner (as trustee), every beneficial owner (as beneficiary), the settlor, and any person with influence over the arrangement.

Applying the exemptions to the common arrangements described in section 4 produces the following general picture. Every conclusion below depends on the precise facts with respect to who the legal and beneficial owners are, whether they are related, and asset values throughout the year.

Arrangement	Likely status	Why
Nominee corporation holding real estate for beneficial owners (single owner or unrelated co-venturers / JV)	Reportable	Legal owner is a corporation, so the individual/related-person and mirror exemptions cannot apply; typically above \$50,000. [Editors' comment: The article refers to the exemption that applies if each beneficiary at any time in the year was also a legal owner of the property and all legal owners were also beneficiaries as the "mirror exemption" or "mirror ownership".]
Bare trustee holding land for a development limited partnership (trustee is not a partner)	Reportable	The partnership exemption requires each legal owner to be a partner other than a limited partner; a non-partner nominee does not qualify. [Editors' comment: While earlier versions of the legislation did not provide this exemption if a limited partner was the legal owner, subsequent versions of the legislation extended the exemption to apply where any partner is the legal owner.]
General partner holding title to partnership property, T5013 filed	Exempt	Partnership-property exemption.

Arrangement	Likely status	Why
Parent on title to adult child's home for mortgage qualification	Exempt	Legal owners are related individuals, and the property could be the principal residence of a legal owner.
Adult child on title to parent's home for probate planning (parent remains on title and lives there)	Exempt	Same exemption as above, the home could be the principal residence of the parent, who is a legal owner.
Adult child holds sole title to parent's rental property or cottage beneficially owned by parent	Reportable	The real-property exemption requires that the property could be a principal residence of a legal owner; a rental property (or a home the titleholder does not inhabit, where the beneficial-owner parent is not on title) will generally not qualify.
Joint spousal bank or investment account	Exempt	Mirror ownership, all legal owners are beneficial owners and vice versa.
Joint account with adult child for convenience; funds beneficially the parent's	Depends	Not mirror ownership (the child is a legal owner but not a beneficial owner). Exempt if under \$50,000 throughout the year, or within the \$250,000 family exemption for qualifying assets; otherwise reportable.
ITF account for a minor child or grandchild	Depends	Same value tests: exempt under \$50,000, or under \$250,000 where all parties are related individuals and assets qualify; reportable above those thresholds. Characterization (bare trust vs. informal trust) should be confirmed first. [Editors' comment: The article does not define an "informal trust," nor does it comment on its filing obligations for the 2026 or previous taxation years.]
Farmland registered personally, beneficially owned by family farm corporation or partnership	Reportable	The beneficial owner is a corporation or partnership, so the individual-focused exemptions do not apply; the partnership exemption applies only if the titleholder is a general partner and a T5013 is required. [Editors' comment: While earlier versions of the legislation did not provide this exemption if a limited partner was the legal owner, subsequent versions of the legislation extended the exemption to apply where any partner is the legal owner. Where CRA has waived the filing of a T5013 that is required under the legislation (for example, certain farm partnerships), this exemption from filing a trust return can still apply.]
Vehicle, license or other asset registered personally but owned by a corporation (or vice versa)	Depends	Reportable if a bare trust exists and value exceeds \$50,000 throughout the year; many routine cases will fall under the \$50,000 exemption.

Arrangement	Likely status	Why
Escrow / interim closing arrangements	Usually exempt	Most conclude within three months (listed-trust exemption); longer arrangements need review.
Property held under a court order (e.g., matrimonial proceedings)	Exempt	Court-order exemption.

Column 1 describes the common arrangements, Column 2 describes the likely status, and Column 3 shows the reason why.



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