



Canadian  
Home Builders'  
Association

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To whom it may concern,

The Canadian Home Builders' Association ("CHBA") welcomes the opportunity to provide comment on specific legislative proposals related to rule changes that clarify trust reporting rules. The beneficial ownership reporting requirements were a significant burden to specific groups within CHBA's membership for the 2023 tax year. Over the past year, CHBA has engaged with both the Department of Finance ("Finance") and the Canada Revenue Agency ("CRA") outlining the need to exempt trusts specifically created out of compliance with legislative statute—including express trusts created for this purpose. Under CHBA's understanding, outlined below, we support the proposed amendment that is a positive step in reducing the regulatory burden placed on new home construction. Please note that we require confirmation from Finance and/or CRA that our understanding is correct and are hereby formally requesting a technical interpretation to that end. We do not support the amendment if our understanding is wrong, and the undue burden will not be alleviated on the home building industry.

Contained in the Legislative Proposals Relating to the Income Tax Act and Income Tax Regulations (Technical Amendments), there is an amendment to section 150(1.2) of the *Income Tax Act* which includes paragraph (q). This amended paragraph states "is established for the purpose of complying with a statute of Canada or a province that requires the person or persons acting as trustee of the trust to hold property in trust for a specified purpose."

CHBA interprets section 150(1.2) paragraph (q) to apply to trusts that either were deemed to exist by way of statute or created expressly by the trustee to comply with a specific statute. The amendment should capture all trusts created out of statutory compliance. Under this interpretation, these trusts would be categorized as "listed trusts" under the regulations for trust beneficial ownership reporting and not be obligated to file a Schedule 15 Beneficial Ownership of a Trust form. CHBA understands that a T3 filing would still be required only if the trust had taxable income to report, as it would have in tax year 2022 or prior.

For example, within Ontario's Condominium Act, Section 81 deals with money held in trust for the sale of units. The statute says that "a declarant shall ensure that a trustee of a prescribed class or the declarant's solicitor receives and holds in trust all money, together with interest earned on it, as soon as a person makes a payment." The trusts are used as a form of consumer protection, ensuring that deposit funds are used for a prescribed purpose—as the construction of the condominium progresses. It is our understanding that with the amendment, section 150(1.2) paragraph (q) would make trusts created expressly to comply with section 81 of the Ontario Condominium Act a listed trust and would no longer need to file the Schedule 15 information.

If our interpretation is correct, we would submit that by making this amendment law, Finance is thoughtfully reversing specific regulatory burdens on home construction. Given the high number of beneficial owners in these trusts that would need to report with Part B of the Schedule 15 form, this reporting requirement was and would have remained a new and significant soft cost in constructing condominium buildings. The significantly higher billable hours charged by the builder's law firm would be incorporated into the sale prices of the home.

However, again, this is based upon CHBA's interpretation that that the amendment applies to trust created expressly out of statutory compliance. We therefore formally request a technical interpretation that confirms CHBA's understanding of the amendment is incorrect. If you would like to discuss this matter for any reason, please reach out to CHBA's Economist, Evan Andrade at [evan.andrade@chba.ca](mailto:evan.andrade@chba.ca) or 613-230-3060 extension 223.

Sincerely,



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CEO, CHBA