



Trusts, Committeeships and Structured Settlements Documentation Guidelines for Clients

Introduction

If you are applying for assistance or receiving assistance and you are a beneficiary of a trust, a person under a committeeship, or a plaintiff who received a structured settlement, you are required to report it to the ministry and submit documentation. With this information, the ministry will determine your eligibility for assistance.

The following information is intended to help you with the process of submitting documentation.

How to submit documents

Documents can be submitted:

- online through My Self Serve at myselfserve.gov.bc.ca
- by fax to the ministry's secure fax number at 1-866-455-0855
- in-person to any ministry or Service B.C. office

Trust documents

Trust documents fall into two general types. **Both types of documents** are required for the ministry to make an eligibility decision.

1) Terms of the trust

2) Financial documentation

Depending on the type of trust, different information is required. Below are general guidelines, but these are not exhaustive. If in doubt, please submit all documents related to the trust.

The ministry cannot provide specific advice about how to manage your affairs. If you have any questions in that regard, it is your responsibility to seek independent legal advice.

1) Terms of the Trust

| Trust Type | Documents Required |
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| <p>Formal Trust</p> <p>A formal trust will include a legal document, usually written by a lawyer or trust firm, outlining the trust.</p> | <p>Documents must:</p> <ul style="list-style-type: none"> • include the trust agreement, trust deed, trust settlement, trust indenture, etc. • be signed and witnessed; and • include all pages of the agreement including any referenced schedules. |
| <p>No Formal Trust</p> <p>A trust can exist in law without a formal trust document.</p> | <p>If there is no formal trust document, submit the trustee's detailed written explanation that describes their understanding of the arrangement.</p> <p>Documents must confirm:</p> <ul style="list-style-type: none"> • that the parties intended to create a trust; • who the beneficiaries of the trust are and, if applicable, who would gain an interest in the trust assets if something happens (for example, if the main beneficiary dies); • specifically what property is held in the trust; • that the trustee has control of the assets held in trust; and • who decides when a payment is made from the trust. |
| <p>Testamentary Trust</p> <p>A testamentary trust is created by a person in their will. The trust becomes effective when that person dies, so a separate trust agreement is not needed to put this trust into effect.</p> | <p>Documents must include:</p> <ul style="list-style-type: none"> • a complete copy of the will; and • either a copy of the death certificate or a copy of the probate documents for the estate. |

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| <p>Investment Accounts under a Declaration of Trust</p> <p>Sometimes investments such as a Tax-Free Savings Account (TFSA) or Registered Retirement Savings Plan (RRSP) are set up under a declaration of trust, with the financial institution as trustee. This situation creates an actual trust where the trustee simply holds the funds and invests them. The beneficiary can withdraw the funds as they wish.</p> | <p>Documents must:</p> <ul style="list-style-type: none"> • include the Declaration of Trust language, which is often a standalone bank document; and • show the link between the Declaration of Trust and the account statements. |
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2) Financial documents

Financial documents are required for all trust types, and the documents must confirm:

- the current value of the assets held in trust;
- the total value of contributions made to all trusts;
- where the assets are held;
- who controls the assets in the trust; and
- who has signing authority (letter from financial institution or trust account set-up document).

Financial documents are most helpful when they show the institution name, account name, account holder(s), account number, date, and account balance.

A trust may initially be set up with a small asset or amount of funds, with additional funds to be added later. In such cases, please provide documents that show the initial amount has been transferred to the trustee to be held in trust. When the additional funds are added to the trust, this must be reported to the ministry, and documentation provided.

After your trust has been assessed and your eligibility has been determined by the ministry, you must continue to report any changes to the trust, or any funds added to the trust and provide updated documentation. The ministry has the authority to ask for information regarding a trust at any time, and trustees must keep accounts and be prepared to produce documentation on request regarding activity in the trust.

Committeeships

A committeeship is an arrangement where a private individual, a trust company, or the *Public Guardian and Trustee* (PGT) is granted the authority to manage the affairs of an adult who is incapable of managing their own affairs.

Documentation must include either a certificate of incapacity or court documentation appointing the committee of estate for the person receiving assistance.

If the person is also a beneficiary of a trust, the trust documentation must also be included (see above).

Structured Settlements

A structured settlement is an agreement to pay damages to a plaintiff in a lawsuit, but by periodic payments rather than as a lump sum. To be considered a structured settlement under this policy, the settlement agreement must:

- be in relation to a claim for damages in respect of personal injury or death, and
- require the defendant to make periodic payments directly to the person for a fixed term or the life of the person through the purchase of a single premium annuity contract that is not assignable, commutable or transferable.

Documentation must confirm the above elements of a structured settlement. The settlement agreement, including the table of payments to be made to the person, and documentation showing the ownership of the underlying annuity generally satisfy this requirement.

More Information

If you require general information about the ministry's trust policy, please see the following resources:

- **Disability Assistance and Trusts Brochure**

https://www2.gov.bc.ca/assets/gov/family-and-social-supports/services-for-people-with-disabilities/supports-services/disability_assistance_trusts.pdf

- **Online Policy Manual - Trust Section**

<https://www2.gov.bc.ca/gov/content/governments/policies-for-government/bcea-policy-and-procedure-manual/eligibility/trusts>

Questions

If you have any questions, please contact the ministry by calling 1-866-866-0800. Due to the complexity of trust matters, responding to trust questions may require a call back from a ministry representative.