

# 'In Trust For' Accounts

When is an 'in trust for' account really a trust? Canada Revenue Agency (CRA) has very specific criteria for making this determination. CRA requires a *formal* trust to meet the "three certainties" of: 1. identifiable property, 2. ascertainable beneficiaries, and 3. clear intention to establish the trust. An account opened at a financial institution is often considered an *informal trust*, as no formal trust indenture has been created.

Trust legislation and taxation rules regulate *formal* trusts. A trust indenture is required to establish a *formal* trust. Additional information regarding the investment of *formal* trust assets at your organization is available [here](#).

When opening an *informal* 'in trust for' account, details of what the client is attempting to accomplish should be noted on the file. The client's goal may determine how the account is registered, and how funds are handled on death of the client or 'beneficiary'.

Following are two example registrations. Always refer to your organization's policy when dealing with the release of assets.

## Client in Trust for Beneficiary

- Client dies – the account is frozen upon notification of death. The registration established a living (inter vivos) trust that may have ended when the client died. If the beneficiary feels there is a claim on the funds, the claim is submitted to the estate.
- Beneficiary dies – ownership of the funds vests with the client. When your organization receives proof of death, the beneficiary's name is removed from the account.

## Beneficiary, Client Trustee

- Client dies – the account is frozen upon notification of death. The terms of the account will dictate whether a successor trustee is appointed, or whether the beneficiary has the power to deal with the funds. The client's executor is notified and the funds are dealt with according to the executor's instructions.
- Beneficiary dies – the account is frozen upon notification of death. Whether or not the funds are payable to beneficiary's estate will depend upon the terms of the account. The funds are dealt with according to the client's instructions. If the beneficiary's estate feels there is a claim on the funds, the claim is submitted to the estate.

Care should be taken when establishing *informal* 'in trust for' accounts to ensure the client's wishes and beneficiary's needs are met.



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