

# An update on legislation in progress and draft legislation not yet introduced

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Here is a snapshot of the various legislative measures we've had on our radar.

## Proposed amendment to the 21-year rule anti-avoidance provision

Announced in the November 4, 2025, Federal Budget, it is proposed that the preamble to subsection 104(5.8) be amended to add the words "directly or indirectly in any manner whatever" to the trust deemed disposition anti-avoidance rule. The existing rule prevents extension of the 21-year rule where property is transferred to another trust. This amendment would significantly broaden the scope of the provision.

The measure has not yet been introduced in final legislative form. STEP submitted a letter to Finance during the consultation period that ended on February 27, 2026. You can find it here: [https://step.ca/marketing/TTC%202026\\_02\\_25\\_Trust\\_Deemed\\_Disposition\\_Anti-Avoidance\\_Rule\\_in\\_Subsection\\_104\(5.8\).pdf](https://step.ca/marketing/TTC%202026_02_25_Trust_Deemed_Disposition_Anti-Avoidance_Rule_in_Subsection_104(5.8).pdf)

The Explanatory Notes to the proposal describe an example of a tax-deferred distribution under subsection 107(2) by a personal trust to a corporate beneficiary that is owned in whole or in part by another personal trust. While the insertion of this language would catch that scenario, it is also clear that it would catch many, many more common situations and would accelerate the timeframe of disposition of trust assets.

An example from the STEP submission points to a common planning situation where life interest trust planning is undertaken for estate and probate purposes. A family trust owns a cottage and distributes the cottage to an individual beneficiary in satisfaction of the beneficiary's capital interest in the trust. Subsequently, the individual transfers the cottage to a spousal trust or alter-ego or joint-partner trust. Where the new rule applies, the deemed disposition is accelerated to the 21-year anniversary of the family trust rather than the death of the life-interest beneficiary (or the last-to-die of the life interest beneficiaries).

And the consequences are big for the transferee trust. Where this rule applies currently, the transferee

trust would suffer an accelerated realization event for all of its property not just the property that is transferred to it. The broad application of this rule as a result of the proposal would amplify this impact.

The consultation period for this measure is closed. We will have to wait and see whether a more targeted legislative approach will be developed.

## **Bill C-15**

In addition to some of the 2025 Federal budget measures, Bill C-15 contains a number of items from prior years that we've been keeping track of. As of February 26, 2026, Bill C-15 has received 3rd reading in the House of Commons and the Bill is now in the Senate.

Here are our updates on areas of interest by topic:

### **Post-mortem planning**

Still pending is the technical amendment that would extend the time for post-mortem capital loss carry-back planning from the first year of the graduated rate estate (GRE) to the first three years of the GRE for deaths on or after August 12, 2024. (See: [Technical amendment expands the time frame for post-mortem capital loss carry-back planning – Tompkins Insurance](#)). The delay in the enactment of this measure has put some estates in the position of proceeding under the current rules notwithstanding that they might qualify, once enacted, for a longer timeframe. For most, it is too risky to wait. A bird in the hand is worth 3 in the bush.

As noted in our prior article ([Bill C-15 – Items of interest – Tompkins Insurance](#)) life insurance to deliver the liquidity to fund the terminal tax liability that is owing as a result of death is an obvious solution, no matter when capital loss carry-back planning is undertaken.

### **Trust reporting**

The filing deadline for a 2025 return for affected trusts is March 31, 2026. The proposed changes that would narrow the scope of reporting and broaden exemptions from reporting (see: [Bill C-15 – Items of interest – Tompkins Insurance](#) and [Exemptions from the Trust Reporting rules – What is the value of Life insurance? – Tompkins Insurance](#)) are not yet in effect. The CRA has announced that it will administer to the proposed changes in Bill C-15.

### **Charitable gifts for 2024**

Believe it or not, Bill C-15 also contains the legislative implementation of the extended deadline for charitable donations for the 2024 taxation year due to the postal strike. (See: [Charitable gift extension – Questions answered – Tompkins Insurance](#)).

### **Furthermore...**

Also, in Bill C-15 are, increasing the lifetime capital gains exemption to \$1,250,000 for dispositions on or after June 25, 2024 with indexation to resume in 2026 and rules surrounding the implementation of the

\$10 million super-exemption for business sales to an employee ownership trust. (See: [Summer reading of the legislative kind – Tompkins Insurance](#) for prior information on these topics).

There's still a lot of legislative catching up to do.

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