



Public Guardian and
Trustee of Manitoba

CHILDREN'S TRUSTS

QUESTIONS & ANSWERS

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TRUST ADMINISTRATION

Definitions

- **Child or children** means anyone who has not yet turned 18.
- **Children's trust** means money or property held in trust by the PGT for a child.
- **Beneficiary** means the person who is entitled to receive the proceeds of a trust.
- **Trust Maturity Date** means the date the trust can be paid out completely. This may be the date the beneficiary turns 18 or some other date as stated in the document that created the trust.

What is the Public Guardian and Trustee (PGT) of Manitoba?

The PGT is a government agency with many functions, including the important function of managing trusts for people not legally able to manage their own money, such as children.

What are the PGT's duties?

Like any trustee, the PGT must protect trust assets and ensure they are handled, invested, and paid out appropriately when the child turns 18 or the age specified in the trust document. The office has policies in place to assist its Trust Administrator in making decisions about children's trusts.



Why does the PGT administer children's trusts?

The PGT administers children's trusts when required by law or Court Order. The duty to administer a trust could happen in a number of ways, including the following:

- There is a Court judgment, settlement or insurance payment for the benefit of a child. This generally occurs when a child is injured, loses a parent, or is a victim of crime.
- A child is named as the beneficiary of a registered investment, pension or life insurance policy, or receives some other benefit or windfall.
- A child inherits money or property from someone who had no Will, or from someone whose Will did not name anyone else to manage the assets on the child's behalf.

Who at the PGT of Manitoba administers children's trusts?

The authority of the PGT to manage trusts is delegated to the various staff members employed by the office. Children's trusts are looked after by a Trust Administrator who oversees the trusts from beginning to end with the help of other staff. Other staff who work on trusts include tax and investment specialists, accountants, support staff, and lawyers.



Can children use any of their trust money before the trust maturity date?

Yes, in some cases, if the use is approved by the PGT. The procedure for requesting trust money held by our office is as follows:

- The parent or guardian sends a written request to the Trust Administrator explaining how the money would be spent. This request must include information about the parent or guardian's financial situation. If the child is over 14 years of age, the request must also include the child's signature showing agreement with the request for money.
- The Trust Administrator reviews each request, taking into consideration the amount of the trust, the financial situation of the parent or guardian, the age of the child, the nature of the request, and any conditions of the trust document.
- The Trust Administrator prepares a recommendation and forwards it, along with all supporting information, to the Manager, Estates & Trusts and/or the PGT for review and approval.
- The Trust Administrator writes back to the parent or guardian, and child if applicable, explaining the results of the decision and enclosing a cheque if the request is approved.



What are valid reasons for requesting trust money?

Trust Administrators have a number of guidelines to follow when requests for trust monies are received:



1. Any specific instructions in the trust document or Court Order must be honoured.
2. Direction is taken from the laws in Manitoba about the administration of trusts.
3. Each request is considered based on the amount of the trust, the financial situation of the parent or guardian, the age of the child, and the nature of the request.

In many cases, trust money can be made available for special opportunities that will benefit the child's educational, athletic, or artistic development.



How is trust money invested?

The Trust Administrator creates a trust account for each child's trust. The money in these accounts is generally invested in the common fund, which is a fund made up of the majority of money managed by the PGT. This fund earns a better interest rate than most single separate accounts.

Sometimes a portion of the money from very large trust accounts may be invested separately in bonds, GICs or blue chip stocks in order to diversify the investment. This type of decision is made by the PGT in consultation with investment and taxation specialists.

Does each trust earn interest?

Yes. All interest earned by the investment of money from each trust is paid to the trust account on a monthly basis.

Does the PGT charge fees to administer a trust?

Yes. The PGT of Manitoba is not funded by the Province of Manitoba, so fees must be charged in order to pay for the PGT's operation. These fees are set out in a fee schedule. As fees change periodically, it is best to inquire and obtain a current fee schedule from the Trust Administrator.

When is trust money paid out?

The money is paid out to the beneficiary as soon as possible after they turn 18, or other age specified in the trust document. For trusts worth \$2,500.00 or more, the Trust Administrator contacts the beneficiary shortly before the payout date and makes arrangements to obtain a signed release.

Why is a release needed?

A release is a legal document that acknowledges that the amount of money being paid out is the full amount of the trust plus all interest due, and approves the amount of fees charged by the PGT's office. If the beneficiary does not agree to sign a release, the matter may be referred to Court to review the administration and set fees. If the beneficiary is not able to sign a release because of an intellectual disability, a legal representative such as a Substitute Decision Maker, a Power of Attorney or a Committee may have to be appointed.

How is trust money paid out?

Once a signed release or Court decision is received, a cheque is prepared for the balance of the trust plus all interest earned, less fees and any amounts previously paid out. The Trust Administrator arranges for delivery of the cheque.



Are children's trusts taxable?

The original capital amounts of children's trust funds, and any interest income earned on personal injury trusts, are generally not taxable. However, interest income earned by trusts may be taxable. The PGT is required to annually report to Canada Revenue Agency all interest income earned on taxable trusts by way of T3 tax information slips.

If a trust is taxable, who files the return?

The T3 slips prepared by our office are sent to Canada Revenue Agency, with copies going to the parent or guardian. It is the parent or guardian's responsibility to determine whether this income, when combined with any other sources of taxable income for the child, exceeds the basic exemption amount. If so, the parent or guardian may have to file a tax return on the child's behalf.

There are a number of other factors to consider, such as whether the child is eligible for any tax credits or whether the child has dependents of their own. Because the tax rules are complex and may differ for each situation, the parent or guardian may need to seek professional tax advice or assistance.

Can trust money be used to pay taxes?

Yes, in most cases. If a child owes income taxes due to interest income earned on a trust, it may be possible to pay the taxes from the trust account. Once the tax return is completed and the exact amount of taxes owing is known, the parent or guardian should contact the Trust Administrator to request payment of the taxes.

Can someone other than the PGT administer children's trusts?

Yes, in some cases. Certain people such as a parent or personal guardian living in Manitoba may apply to Court under *The Infants' Estates Act* to be appointed as trustee. However, where a large amount of money is involved, the Court may require a trust company or other independent professional to act as trustee.

Before applying to Court to be appointed trustee, consider the following:

- The trustee is required to preserve and invest the trust money until the trust maturity date.
- The trustee is required to keep comprehensive records of all investments, receipts and disbursements of the child's money and property. The Court Order may require the trustee to periodically pass the accounts before the Court. When the child becomes eligible to receive the balance of the trust money, they are entitled to receive a detailed record of accounting for the duration of the trust.
- Unless the trust document or Court Order expressly allows it, the trustee may not be entitled to spend the trust money for the child's benefit before the trust maturity date. The trustee may need to seek legal advice on this point.
- Trust money is not to be used for the regular financial support of the child unless the trust allows it. Parents are legally required to support their children and the trust money can only be used prior to the trust maturity date in certain circumstances as set out by the trust document and/or relevant laws.
- In some cases, the Court will require parents or guardians to post a bond before naming them as trustees. This means they must sign a legal document acknowledging their responsibility to properly administer the trust and are liable for their actions in that role.

Where can I get more information?

If you have more questions, please contact us.
The Office of the PGT of Manitoba is open Monday to Friday from 8:30 a.m. to 4:30 p.m. (closed on statutory holidays).

Phone: (204) 945-8230

Email: PGT@gov.mb.ca

Mail: Trust Administrator
Estates & Trusts
Public Guardian and Trustee of
Manitoba 155 Carlton Street, Suite 500
Winnipeg MB R3C 5R9



If you have more questions about the PGT's Trust Administration department, please don't hesitate to contact us.

Phone: (204) 945-8230

Email: PGT@gov.mb.ca

This brochure provides general information about the Trust Administration department. It does not include all the details of the law, policies, procedures and exceptions that may apply in a particular case. For information about the law governing trusts, please refer to the applicable statutes and contact your lawyer.

If you have questions about other services provided by the PGT you can access our website at:

www.gov.mb.ca/publictrustee or www.gov.mb.ca/pgt



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