



eNews – September 2, 2025

STEP Canada Tax Technical Committee

RE: EIFEL and US Cottage Trust

Earlier in the year, the Tax Technical Committee submitted a technical interpretation request to the CRA to clarify whether sub-paragraph (c)(i) of the “excluded entity” definition in sub-section 18.2(1) can be satisfied when a Canadian-resident trust that is an “eligible group entity in respect of a taxpayer” holds a foreign property solely for personal use. These types of structures are commonly deployed by Canadians purchasing U.S. personal-use real estate, as they offer protection against U.S. estate tax and state probate issues when properly implemented.

Unfortunately, the CRA responded unfavorably. [Its position, outlined in a response letter dated June 30, 2025 and published as CRA Views 2025-1056861E5 on August 20, 2025](#), concludes that such a trust does not meet the “all or substantially all” test, thereby disqualifying the entire group from the excluded entity exception - even if the trust’s foreign property is immaterial relative to the activities and value of the group of entities.

Behind the scenes, the Committee made extensive submissions to the CRA, arguing that:

- the Canadian “undertakings and activities” test should apply to aggregate group activity, not each entity individually;
- personal-use property should not be considered an undertaking or activity; and
- the location of the property should not be determinative.

Despite these efforts, the CRA maintained its position. The Committee’s next step is to engage with the Department of Finance to explore whether legislative amendments could address this issue.

We encourage members to review their clients’ structures and consider the implications. Where the EIFEL rules apply, additional filing requirements will apply to each eligible group entity of the client, and the client’s deduction for interest and financing expense could be significantly limited.

Tax Technical Committee
STEP Canada

About STEP: The Society of Trust and Estate Practitioners is the leading international organization for trust and estates professionals. Headquartered in London, England, it has more than 22,000 members worldwide in over 100 countries.

STEP Canada, founded in 1998, has nearly 4,000 members with branches in the following cities and regions: Atlantic, Montreal, Ottawa, Toronto, Winnipeg, Saskatchewan, Calgary, Edmonton, and Vancouver, with chapters in Okanagan Valley, and Southwestern Ontario. STEP is a multidisciplinary organization with the most experienced and senior practitioners in the field, including lawyers, accountants, financial planners, insurance advisors, and trust professionals. They provide domestic and international advice on trust and estates, including planning, administration, and related taxes.

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