STEPUP

Sales Tax Estate Planning Underwriting & Product Newsletter

Tax-Free Savings Account – Timing of contribution and Form RC240

Situation

The following situation was presented to the Canada Revenue Agency (CRA):

- Mr. X died on January 1st, 2021
- Among other things, he had a Tax-Free Savings Account (TFSA) trust with a value of $100,000 at the date of death
- His will provided for a specific bequest of his TFSA to his spouse, Ms. Y
- During the settlement of the estate, the TFSA account remained open and its value did not fluctuate
- As the estate was late in being settled, Ms. Y made a $100,000 contribution to her own TFSA on June 15th, 2022, using her own funds and designating that contribution as an “exempt contribution” within the meaning of the definition of “exempt contribution” in subsection 207.01(1) (the “Definition”) of the Income Tax Act, before receiving anything directly or indirectly from the TFSA
- Once the estate was settled and the TFSA was wound up, the executor paid to Ms. Y, in full settlement of her bequest, $100,000 representing the value of the TFSA before the end of the rollover period, being before December 31st, 2022.

Question to CRA

Will Ms. Y be able to designate her contribution made on June 15th, 2022 as an “exempt contribution” within the meaning of the Definition? In other words, must Ms. Y wait until she receives the payment from the estate before making the contribution to her own TFSA?

CRA’s comments

For a particular contribution to be designated as an “exempt contribution”, all conditions of the Definition must be satisfied.

The contribution must be paid during the rollover period (as defined in paragraph (a) of the Definition) and the payment to the survivor must be received during the rollover period (as required by paragraph (b) of the Definition).

Alex Papale,
Tax Retirement & Estate Planning Services

Alex is a well-regarded Tax and Estate Planning specialist with a sought-after ability to analyze and articulate complex matters. He completed graduate studies in tax law which allows him to provide integrative advice and comprehensive solutions to problems faced by Canadian residents and business owners. Before joining Empire Life, Alex worked for renowned accounting and legal firms, where he regularly advised clients on various tax and estate planning matters.

Alex can be reached at alex.papale@empire.ca

Empire Life Investments

In addition, paragraph (c) of the Definition requires that the contribution be designated in prescribed form (Form RC240), within 30 days after the day on which the contribution is made (or at any later time that is acceptable to the Minister). In the situation described, it was not open to Ms. Y to file Form RC240 on June 15th, 2022, since she had not yet received a survivor payment. Indeed, in order to be able to file Form RC240, Ms. Y must be able to make a determination of the maximum amount that qualifies as an excluded contribution, which, under subparagraph (d)(i) of the Definition, cannot be made before a survivor payment is received by Ms. Y. Thus, until Ms. Y has received a survivor payment, the amount of the contribution that may be designated is nil and no designation can be made under paragraph (c) of the Definition. It follows that unless she receives the survivor payment within 30 days of the time she made her contribution, Ms. Y will not be able to file Form RC240 within the 30-day period provided in paragraph (c) of the Definition.

If Ms. Y receives a survivor payment more than 30 days after making her contribution but within the rollover period, she may request the exercise of Ministerial discretion in order to be able to file Form RC240 late. Only if the Minister accepts the filing of Form RC240 at a time after the expiry of the 30-day period may Ms. Y's contribution qualify as an excluded contribution.

Conclusion

In the situation described, the $100,000 contribution made by Ms. Y on June 15th, 2022 cannot be considered an excluded contribution if Ms. Y receives the $100,000 survivor payment on or after July 15th, 2022 (although within the rollover period), unless the Minister allows her to file Form RC240 at a later date.

Empire Life Investments Inc.
165 University Ave., 9th Floor, Toronto, ON M5H 3B8

Insurance & Investments – Simple. Fast. Easy.®
empire.ca info@empire.ca 1 877 548-1881

INV-3407-EN-05/22