

Tax-Free Savings Account – Transfer as payment of debts of estate

Question

Is the transfer of a TFSA to a deceased's spouse as a total or partial payment of certain debts of the estate made as a consequence of the death and is that payment in compliance with paragraph (b) of the definition of "exempt contribution" in subsection 207.01(1) (the "Definition") of the Income Tax Act (ITA)?

CRA's comments

By virtue of paragraph (d) of the definition of "exempt contribution" in To satisfy paragraph (b) of the Definition, a payment directly or indirectly out of or under an arrangement that ceased, because of the individual's death, to be a TFSA must be made to the survivor during the rollover period that begins when the individual dies. Such payment is referred to as the "survivor payment" in the Definition.

For a payment made to a survivor during the rollover period to be a "survivor payment", the following conditions must be met:

1. It is directly or indirectly derived out of or under an arrangement that ceased to be a TFSA because of the death of its last holder; and
2. It is made as a consequence of the death of the individual.

With respect to the issue of whether the payment is made as a consequence of the individual's death, CRA is of the view that the transfer or distribution of property in order to discharge a debt of the estate to the surviving spouse resulting from the partition of the family patrimony, the dissolution of a matrimonial regime, a gift made by a marriage contract, a post-mortem obligation to provide support or a spousal compensatory allowance would be deemed to be made as a result of the death under paragraph 248(23.1)(a) ITA.



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

Tax-Free Savings Account

Conclusion

CRA is of the view that the transfer or distribution of property held in the TFSA by the executors to the surviving spouse as a total or partial payment of the rights referred to in paragraph 248(23.1)(a) ITA could constitute a survivor payment that is indirectly derived from an arrangement that ceased to be a TFSA because of the death of its last holder and is made as a consequence of the death of the individual as required under paragraph (b) of the Definition.

Empire Life Investments Inc. is a wholly-owned subsidiary of The Empire Life Insurance Company. Segregated fund contracts are issued by The Empire Life Insurance Company. Empire Life Investments Inc. is the Portfolio Manager of the Empire Life segregated funds.

This document reflects the views of Empire Life Investments Inc. as of the date published. The information in this document is for general information purposes only and is not to be construed as providing legal, tax, financial or professional advice. Empire Life Investments Inc. assumes no responsibility for any reliance on or misuse or omissions of the information contained in this document. Information obtained from and based on third party sources are believed to be reliable, but accuracy cannot be guaranteed. Please seek professional advice before making any decisions. A description of the key features of the individual variable insurance contract is contained in the Information Folder for the product being considered.

Any amount that is allocated to a Segregated Fund is invested at the risk of the contract owner and may increase or decrease in value.

® Registered trademark of **The Empire Life Insurance Company**. Empire Life Investments Inc. is a licensed user of this trademark

FOR ADVISOR USE ONLY

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-3411-EN-05/22

