

Tax-Free Savings Account – Survivor payment and decrease in fair market value

Question

What is the amount of the survivor payment in four scenarios where the fair market value (FMV) of the property held by a tax-free savings account (TFSA) decreases after the death of its last holder and the survivor is a beneficiary of the last holder's estate under his will?

CRA's general comments

By virtue of paragraph (d) of the definition of "exempt contribution" in subsection 207.01(1) (the "Definition") of the Income Tax Act (ITA), the amount of the contribution cannot exceed the least of three amounts set out in subparagraphs (d)(i), (ii) and (iii) of the Definition.

The first amount, provided for in subparagraph (d)(i) of the Definition, is the amount, if any, by which the amount of the survivor payment exceeds the total of all other contributions designated by the survivor in relation to the survivor payment.

The second amount, provided for in subparagraph (d)(ii) of the Definition, is the amount, if any, by which the total proceeds of disposition that would be determined in respect of the arrangement under paragraph 146.2(8)(a) ITA exceeds the total of all other exempt contributions in respect of the arrangement made by the survivor. In all of the scenarios described below, this amount is equal to the FMV of the trust property immediately before Mr. X's death of \$100,000.

The third amount, provided for in subparagraph (d)(iii) of the definition, is not applicable in this example since the third amount only comes into play where an individual has an excess TFSA amount immediately before death or where survivor payments are made to more than one survivor of the individual, which is not the case here



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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.

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Scenario 1

Facts

- Mr X died on January 1st, 2018
- Among other things, he held a TFSA trust with a value of \$100,000 on the date of death
- His will provided for a specific legacy of the TFSA to his spouse, Ms Y, and a legacy of the residue of all his property to his daughter
- During the settlement of the estate, the TFSA account remained open, but decreased in value and was worth only \$90,000 when the estate was fully settled on June 1, 2019.
At that time, the executor paid Ms Y \$90,000 from the liquidation of the TFSA. On June 15, 2019, Ms Y contributed \$100,000 to her own TFSA.

CRA's conclusion

The limit in subparagraph (d)(i) of the definition would be \$90,000. Therefore, Ms Y would have to have a minimum of \$10,000 of TFSA contribution room, otherwise she would have an excess TFSA amount.

Scenario 2

Facts

- The facts are the same as in Scenario 1, with the difference that, under Mr X's will, the legacy of the residue of all his property is to his spouse, Ms Y, with unrestricted ownership
- Upon full settlement of the estate on June 1, 2019, the executor paid Ms Y \$90,000 from the liquidation of the TFSA and \$200,000 as payment of her residual legacy.

CRA's conclusion

In this scenario, although Ms Y receives \$290,000 from the estate, the estate received only one payment of \$90,000 from the TFSA. The fact that Ms Y received additional amount from the estate does not alter that conclusion. Consequently, the limit in subparagraph (d)(i) of the definition would be \$90,000 in this scenario as well.

Scenario 3

Facts

- The facts are the same as in Scenario 2, except that the executor of the estate, rather than keeping the TFSA trust account open through to the settlement of the estate, closed the TFSA by liquidating the investments, which were then worth \$100,000. He then transferred the \$100,000 to the estate account and invested it.
- Following the full settlement of the estate, the liquidator paid Ms Y \$290,000, including both the payment of her specific legacy and the payment of her residual legacy. Ms Y therefore received the same total amount as in Scenario 2.

CRA's conclusion

In Scenario 3, Mr X's estate received a payment of \$100,000 in cash from the TFSA. In such circumstances the CRA is of the view that the survivor payment would be equal to the TFSA payments to the estate of \$100,000, since Ms Y is entitled to the TFSA and received at least an equivalent amount from the estate, in accordance with Mr X's will.

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Scenario 4

Facts

- The facts are the same as in Scenario 2, with the difference that the executor of the estate, rather than keeping the TFSA trust account open throughout the settlement of the estate, transferred the TFSA property in kind to an estate investment account, when the value of the property was \$100,000.
- At the time the estate is fully settled, the property from the liquidation of the TFSA had a value of \$90,000 and the executor paid \$290,000 to Ms Y, the same amount as in Scenarios 2 and 3.

CRA's conclusion

In Scenario 4, Mr X's estate also received a payment of \$100,000 in kind from the TFSA. In such circumstances the CRA is of the view that the survivor payment would be equal to the TFSA payments to the estate of \$100,000, since Ms Y is entitled to the TFSA and received at least an equivalent amount from the estate, in accordance with Mr X's will.

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