STEPUP

Sales Tax Estate Planning Underwriting & Product Newsletter

RRIF balance to "spouse" on death of owner

What happens to the proceeds of a Registered Retirement Income Fund (RRIF) owned by a married or equivalent to married individual when he or she passes away? Presumably, the owner intended to leave any balance in the RRIF to his or her spouse or common law partner. What are some of the ways that a spouse or common law partner can receive the balance in a plan and avoid having income tax owed on the whole amount of registered monies? Let's review some options and considerations depending on the underlying investments, specifically, non-insurance based vs. insurance based investments.

The surviving spouse/common law partner may receive the RRIF balance as:

a) Successor Annuitant:

A surviving spouse or common-law partner can be named as a "successor annuitant" in the RRIF contract or in the annuitant's will when the underlying investments are mutual funds. Contrast this with a life insurance based investment like a segregated fund where the owner/annuitant must be alive to name a successor annuitant. An insurance company cannot do a name change on a RRIF policy on the death of the annuitant because the guarantees in the contract are tied to the annuitant. The RRIF terminates with proceeds paid to the estate or named beneficiary. When a successor annuitant can be named, the survivor simply becomes the owner of the RRIF, and all future RRIF payments will be reported in his or her income. The survivor may continue to receive payments based on the original terms of the deceased's RRIF. The survivor, as the RRIF owner, also has the option of transferring the RRIF balance into an RRSP (if he or she is under age 71), a registered annuity or another RRIF. When the survivor becomes the successor annuitant, the value of the RRIF will not be reported in the deceased's income at the time of death. The surviving spouse or common law partner does not have to deal with extra reporting slips (T4- RIF). The T4-RIF identifies the amount paid from the deceased's RRIF and the amount eligible to be transferred to the surviving spouse's plan.

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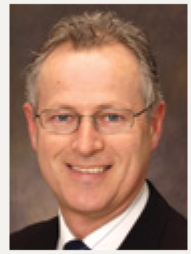

Peter A. Wouters,
Director, Tax Retirement & Estate Planning Services, Wealth

Peter works with independent advisors and other professionals raising awareness on issues and concerns faced by affluent individuals, professionals and business owners. He supports efforts in researching and developing optimal solutions for clients aimed at improving their financial well-being and supporting their personal wishes and lifestyles. He annually provides 100's of workshops, seminars and technical support throughout the country on tax, retirement income and estate planning issues, concepts and strategies to both advisors and consumers. As a Registered Financial Gerontologist, a good deal of his time is spent on building awareness and educating people of all professions who work with or specialize in the needs, expectations and issues of elders. Comprehensive lifestyle planning is an important element of these processes.

The Sales, Tax, Estate Planning, Underwriting & Product (STEPUP) team provides internal and broker support, including seminars, education, advanced concept illustrations & Client case technical consultations.

Peter can be reached at peter.wouters@empire.ca

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b) Beneficiary

A different set of rules applies if the surviving spouse or common-law partner is named as the sole RRIF beneficiary but not as a successor annuitant. In these cases, the surviving spouse has the option of rolling the RRIF proceeds into a registered plan. This could be a:

1. Registered Retirement Savings Plan (RRSP) if the survivor is age eligible,
2. Pooled Registered Pension Plan (PRPP),
3. Specified Pension Plan (SPP),
4. Registered Retirement Income Fund (RRIF), or
5. an annuity

The registered plan in all cases would be in the survivor's own name. The entire eligible part of the RRIF must be transferred to the registered plan by Dec. 31st of the year following the year of death. For example, if the annuitant died on Mar. 31, 2015, then the transfer of the designated benefit must be completed by Dec. 31, 2016. It is reported in box 24 of the T4RIF slip. Again, there is no immediate taxation of the RRIF balance except to the extent of the minimum amount that is required to be paid out of the plan for the year. Specifically, the fair market value at death is reportable in the deceased's terminal return but a deduction is available for a "designated benefit" paid to the survivor. The survivor must report the amount in his or her income but can, in turn, claim a deduction for the contribution to a registered plan. The amount eligible for contribution to the survivor's own plan is reduced to the extent that the payments received by the deceased during the year of death are less than the minimum amount for that year. The beneficiary pays the tax on any unpaid minimum RRIF payments for the balance of the year from the original plan. Income paid to that beneficiary is reported in box 16 of a T4RIF slip issued in his or her name, for the year of payment.

An election can be made to reduce the amount of the tax-free rollover transfer from the deceased to the beneficiary spouse, in whole or in part. Any portion of the RRIF plan proceeds left to be taxable to the deceased would be payable to the estate and then distributed according to the Will. This may provide some tax relief, for example, when the deceased had relatively low taxable income or had net capital losses or other deductions from income.

Alternatively, in the case of a RRIF holding mutual funds, the beneficiary spouse or common law partner can be named as "Successor Annuitant" under the original plan contract and the legal representative for the deceased annuitant consents to the election. The annuitant's legal representative and the spouse or common law partner jointly file Form T1090, Death of a RRIF Annuitant – Designated Benefit for Year 20__, to designate all or part of the amounts paid to the estate as a designated benefit received by the spouse or common law partner as a qualified beneficiary. Please note that rules differ in Quebec where beneficiary designations are not recognized and assets should be distributed through a Will. So with a RRIF, a spouse should be named as a "successor annuitant" in the Will. Similarly, Yukon residents cannot make RRIF beneficiary designations.

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The value of a RRIF may increase between the date of death and the date of the final distribution to the beneficiary or estate. Generally, this amount has to be included in the income of the beneficiary or the estate for the year it is received. A T4RIF slip (Insured or Trusteed plans) or T5 slip (depository RRIF) may be issued for this amount.

The value of a RRIF may decrease in value between the date of death and the date of the final distribution to the beneficiary or the estate. Regulations were changed for the 2009 tax year. Now, if the final distribution is made in the year of death, the deduction will be claimed when filing the final income tax and benefit return. The deduction is claimed on line 232 of the T1 General Income Tax and Benefit Return. If the distribution is made later, then the deceased's legal representative can ask that the amount of the decrease be carried back and deducted on the deceased's final income tax and benefit return through a reassessment. (Note the time requirements for transfers)

There are benefits to a successor annuitant structure set up with the financial institution where this is possible. There is no winding up of underlying investments. RRIF values are not crystallized in those cases where there is a market downturn at the time of death. The successor annuitant can hold on to those investments in anticipation that performance and values recover. Any guarantees and special provisions like resetting values eligible for enhanced protection under segregated funds continue without interruption. This is because he or she immediately steps into the shoes of the former spouse for contract purposes. Changes can be made later. That said, a beneficiary setup may achieve other estate planning objectives.

It's important to periodically review and stress test an individual's estate plan to ensure that the structure and strategies continue to do the job they were intended to do. If changes need to be made, then implement them to suit different circumstances and priorities. Finally, be mindful of the differences available depending on whether underlying investments are mutual funds or segregated funds.

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