

# MEMBER RETIREMENT SERVICES

Designations on RRSPs, RRIFs, & TFSAs



# Ensuring Your Objectives... With Designations on RRSPs, RRIFs & TFSAs

## Liability for Income Tax on RRSP or RRIF

The estate is required to pay the income tax on any RRSP or RRIF proceeds paid to your designated beneficiary.

Exceptions could occur if:

- 1) Your spouse/common-law partner is designated as the sole beneficiary of the RRSP or RRIF and the entire amount is transferred to his/her RRSP or RRIF. If all these conditions are not met, a joint election by your spouse/common-law partner and your estate representative can be made to report all or part of the amount as income of your spouse/common-law partner.
- 2) Your beneficiary is your child or grandchild who is financially dependent upon you at the date of your death. Provisions in the *Income Tax Act* permit the transfer of RRSP or RRIF proceeds to financially dependent children or grandchildren and, depending on the circumstances, the proceeds may be reportable as income of the child/grandchild rather than income of the deceased. If a financially dependent child or grandchild is under 18, the proceeds can be used to purchase a term annuity to age 18.

If the child is physically or mentally infirm, the proceeds can be transferred to an RRSP or RRIF. The estate would not be required to pay income tax on the amount transferred. Payments from the RRSP or RRIF become reportable as income of the child/grandchild.

*Note: If your estate has insufficient assets to pay taxes on RRSP or RRIF proceeds paid to designated beneficiaries, the Canada Revenue Agency (CRA) will collect the outstanding income tax from those individuals.*

## Liability For Income Tax on TFSA

The designated beneficiary or estate is required to pay the income tax on income earned from date of death until distribution. An exception could occur where your spouse/common-law partner is appointed successor holder and designated the beneficiary on the TFSA contract.

References to "Letters Probate or Administration" include "Certificate of Appointment of Estate Trustee with/without a Will" in the province of Ontario.

## Designation on the RRSP, RRIF or TFSA Contract

**Advantages:** It is not necessary to obtain Letters Probate or Administration to deal with the RRSP, RRIF or TFSA.

**Disadvantages:** If the designation names your spouse/common-law partner, the option of taxing some or all of the RRSP or RRIF proceeds on your estate income tax return for year of death may not be available.

*Quebec Residents:*

*The Quebec legislation does not recognize a beneficiary designation on an RRSP, RRIF or TFSA contract; a designation of beneficiary is only recognized in a Will.*

*Where, at the time of your death, you reside in Quebec, a designation of beneficiary on an RRSP, RRIF or TFSA contract will not be recognized. In addition, an appointment of Successor Annuitant on a RRIF contract or an appointment of Successor Holder on a TFSA contract will not be recognized. In the event of your death, the proceeds of your RRSP/RRIF/TFSA will be paid to your estate.*

*Your personal representative may complete the CRA and Quebec forms to permit the roll-over of your RRSP/RRIF to your spouse/common-law partner's RRSP or RRIF.*

*Where the funds were held in a RRIF, your personal representative may appoint your spouse/common-law partner as the successor annuitant of your RRIF.*

*Where the funds were held in a TFSA and your spouse/common-law partner is a beneficiary under your estate, she/he may be eligible for the exempt contribution provision.*

## Designation in the Annuitant's Will

**Advantages:** Provides you with the ability to structure a diverse distribution plan.

**Disadvantages:** Additional costs may be incurred as it may be necessary to probate your Will in order to give force and effect to your designation.

If your Will is revoked or destroyed, the designation may be lost.

## Designation of a Successor Annuitant on the RRIF only

- Only your spouse/common-law partner can be appointed as your successor annuitant.

- On your death, the RRIF continues in the name of your spouse/common-law partner, subject to the terms and conditions in your contract.
- If your spouse/common-law partner predeceases you, the proceeds of the RRIF contract would be divided among other named beneficiaries who are alive at the date of your death.
- If none of the named beneficiaries survive you, or if none of them are willing to accept the funds, the proceeds will be paid to your estate.

Any withdrawals from the RRIF after date of death are taxable in the hands of the successor annuitant.

*Note: It is beneficial to appoint your spouse/common-law partner as the successor annuitant and to designate your spouse/common-law partner as the primary beneficiary in order to avoid the possibility of a dispute regarding entitlement to the RRIF proceeds on death.*

## Designation of a Successor Holder on TFSA only

- Only your spouse/common-law partner can be appointed as your successor holder.
- On your death, the TFSA continues in the name of your spouse/common-law partner, subject to the terms and conditions of your contract.
- If your spouse/common-law partner predeceases you, the proceeds of the TFSA contract would be divided among other named beneficiaries who are alive at the date of your death. If none of the named beneficiaries survive you, or if none of them are willing to accept the funds, the proceeds will be paid to your estate.

*Note: It is beneficial to appoint your spouse/common-law partner as the successor holder and to designate your spouse/common-law partner as the primary beneficiary in order to continue tax sheltering of the TFSA and avoid the possibility of a dispute regarding entitlement to the TFSA proceeds on death. In addition, unlike RRIF, the estate representative cannot make the successor holder election after death of the holder.*

*If you do not appoint your spouse/common-law partner as successor holder, however, she/he is the designated beneficiary on your TFSA contract or in your Will, the tax sheltering of income ends on your death. Any income earned after the date of your death is payable and taxable to your spouse/common-law partner. Your spouse/common-law partner may re-contribute an amount not exceeding the value at date of death to a TFSA in his/her name. The contribution must be made on or before December 31 following the year of death and your spouse/common-law partner must inform the CRA of the re-contribution, within 30 days of making the contribution or at a later time as permitted by the CRA.*

## No Designation

**Advantages:** When there is no designation on the contract or in your Will, individuals can inherit the RRSP, RRIF or TFSA under a bequest or as a residual beneficiary.

Using a specific bequest in the Will instead of a designation of beneficiary allows you to impose trust conditions on the distribution of the funds. This is commonly done if a beneficiary has not attained the age of majority.

A bequest in a Will also permits you to direct who will be entitled to receive an individual's share of the RRSP, RRIF or TFSA proceeds if that beneficiary predeceases you. The option of taxing some or all of the RRSP or RRIF on your estate return for year of death is available.

**Disadvantages:** There may be additional expenses and delays in the administration of your estate if it is necessary to obtain Letters Probate or Administration to deal with the RRSP, RRIF or TFSA.

The RRSP, RRIF or TFSA funds may be attachable by creditors of your estate or subject to claims against your estate.

## Making the 'Best' Designation

The decision of when and how to make a designation is YOUR responsibility. The "best" designation is the one that meets your personal and estate planning objectives.

Careful consideration should be given to:

- Changes in your personal circumstances.

*When you prepare a new Will, any former Wills are revoked. In addition, in most jurisdictions, a Will is revoked by a marriage. Depending on the applicable provincial legislation, a designation in a Will may be revoked at the same time. A designation on a "designation form" will not automatically be revoked or changed by any future marriage or divorce. A new designation form must be completed in order to effect a change.*

## When Designating a Beneficiary on an RRSP, RRIF or TFSA

- You may appoint one or more primary beneficiaries, as well as one or more alternate beneficiaries. Your spouse/common-law partner can be named as either a primary or alternate beneficiary.
- The portion of the RRSP or RRIF proceeds payable to your spouse/common-law partner or to a financially dependent child or grandchild may be transferred directly to another plan as permitted by the *Income Tax Act* or paid to the beneficiary.
- The portion of the TFSA proceeds payable to your spouse/common-law partner may be designated as an 'exempt contribution' by the surviving spouse/common-law partner.
- The proceeds of the RRSP, RRIF or TFSA will be divided among the named "primary beneficiaries" who are alive at the date of your death. If all the primary beneficiaries have predeceased you, the proceeds would be divided among the named "alternate beneficiaries" who are alive at the date of your death. If none of the named beneficiaries survive you, or if none of them are willing to accept the funds, the proceeds will be paid to your estate.
- Except in those situations noted on the reverse, the estate is responsible for reporting and paying income tax on the RRSP or RRIF funds. TFSA income earned after date of death is generally taxable to the beneficiary or the estate at the time it is distributed. This could result in an inequitable distribution of assets if the designated beneficiaries are not the only residual beneficiaries of the estate.
- If the designation names a child under the age of majority or an incompetent individual, there may be a legal requirement that the proceeds of the RRSP, RRIF or TFSA be paid to the Public Trustee or Official Guardian.
- If your designated beneficiary predeceases you, the designation on the contract does not provide for the proceeds to pass to that beneficiary's children.

- The liability for the payment of debts and taxes.
- Pertinent provincial and federal legislation.  
*Pension funds are subject to and controlled by specific legislation. If you designate a person other than your spouse (or other individual who has been given similar rights under applicable legislation) to receive the proceeds, such legislation may override and void your designation.*

Whatever method of designation you select, a review is recommended when there are changes in legislation or in your personal circumstances. If you do not designate anyone or if the beneficiary predeceases you or refuses the gift, the proceeds will be paid to your estate and distributed in accordance with the terms of your Will (or under the laws of intestacy if you don't have a Will).

## Protection from Creditors Before and After Death

- A recent court decision held that RRSPs and RRIFs do not form part of the estate when paid under a valid designation of beneficiary. This protection from creditors does not exist prior to death of the annuitant, nor to taxes owing by the estate to the CRA on RRSP or RRIF amounts paid to a designated beneficiary.
- Under the jurisdiction of Prince Edward Island, certain designations protect RRSP and RRIFs from creditors during their lifetime.

## Before Designating Your Spouse as Beneficiary

- Does your spouse/common-law partner already have sufficient registered investments?
- Is your spouse/common-law partner the higher income earner?
- Is it probable that your estate would have reduced income, capital losses or loss carry forward to report in the year of death?

## Before Designating Someone Other than Your Spouse

- Is that person the sole residual beneficiary of your estate assets?
- Is it compatible with your other estate planning objectives to have your estate pay the income tax on funds paid directly to your designated beneficiary?

## Before Designating a Child

- Does your child qualify as financially dependent under the *Income Tax Act*?
- Will your child's court-appointed property guardian or the Public Trustee/Official Guardian agree to the purchase of an immediate annuity, or if possible, to transfer the proceeds to an RRSP or RRIF in the name of your child?
- Are there sufficient funds in the RRSP or RRIF to make the purchase of an annuity practical? If so, do you intend that the full value of the RRSP or RRIF will be paid to your child prior to the age of majority?

## Before Having Proceeds Payable to Your Estate

- Are the nature and extent of your assets such that, regardless of the designation on the RRSP, RRIF or TFSA, the Will may have to be probated?
- What are the probate and administration costs that would be associated with the RRSP, RRIF or TFSA?

If you are not sure how to proceed, consult a professional financial advisor.

## Designations Under Power of Attorney

Although the case law is inconsistent, it is generally thought that a designation of a beneficiary made by an attorney under authority of a Power of Attorney would not be valid. However, effective March 31, 2014 in British Columbia, an attorney under authority of a Power of Attorney may make, alter or revoke a designation if authorized by the court. Authorization from the court is not required where a new designation of the same designated beneficiary is made.

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