

# Canadian Tax Planners Newsletter

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In this edition of the Canadian Tax Planners Newsletter, we shall review the relationship between the two certainties in life - death and taxes. Although Canada has no estate tax, upon death there is a deemed disposition of an individual's assets. If the property is transferred to a surviving spouse, any taxes on the resulting capital gain can be deferred until the spouse disposes of the assets. Death will also result in the payment of various fees by the estate, such as probate, executor and possibly legal and accounting fees, depending upon the complexity of the estate. Our review of the tax implications of death shall include the following topics:

- transfer of assets upon death
- the prepayment of an inheritance
- post mortem tax planning
- donations
- probate fees
- executor fees
- US estate taxes

## **Transfer of Assets upon Death**

When individuals die, they are deemed to dispose of their assets at fair market value at the time of death. Any capital gain or loss is included in the deceased's final tax return. After payment of the taxes, the remaining assets can be distributed to the beneficiaries. The most common assets transferred at death are the family home, personal possessions, investments and the retirement vehicles such, as registered retirement savings plans and registered retirement income funds. Let's review the tax implications of transferring these assets:

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**Family Home** - Assuming no other property has been designated as a principal residence, the gain on the family home will qualify for the principal residence exemption. Thus, no income tax will be payable by the deceased, regardless of whether the property is transferred to a surviving spouse or some other beneficiary.

**Personal Possessions** - Most personal property such as vehicles, furniture and boats will not result in any tax consequences upon death. The adjusted cost base and the proceeds of disposition are both deemed to be \$1,000. This eliminates most capital gains as these assets rarely appreciate in value and a gain can only be taxable if the proceeds of disposal exceed \$1,000. A capital loss cannot be claimed on personal use property, unless it meets the definition of listed personal property that includes art, jewellery, rare books, coins and stamps.

**Investments** - If an investment does not have the potential to appreciate in value, such as cash, GIC's and T-bills, they can be transferred to a beneficiary without tax consequences. Any investment income prior to death is included in the deceased's final return, any income after death will be allocated to either the estate or a beneficiary.

Since there is a deemed disposition at death, any asset whose value fluctuates such as stocks, bonds, units of an income trust, or mutual funds may generate a capital gain or loss. Any gain or loss is included in the deceased's final tax return, unless the beneficiary is the surviving spouse. In such cases, the surviving spouse takes over the deceased's adjusted cost base. For example, if the husband purchased 1000 shares of ABC Limited for \$10 and they are currently worth \$100 per share, the surviving spouse would assume the deceased's cost base of \$10 and no taxes would be payable as a result of the death. If the shares are eventually sold for \$110 each, the surviving spouse would have the following gain:

Note - The remainder of this article is only available to subscribers of the Canadian Tax Planners Newsletter. If you elect to subscribe and wish to receive a copy of this newsletter, advise us accordingly and the complete article will be forwarded by return mail.