



FAMILY WEALTH PLANNERS  
PERSONAL TAX ADVISORS  
[www.finplans.net](http://www.finplans.net)  
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## ***Deceased Individuals - Tax Return Review Checklist*** (12/11)

Name \_\_\_\_\_

Date of Death \_\_\_\_\_ SIN \_\_\_\_\_

Executor \_\_\_\_\_

Telephone \_\_\_\_\_ Email address \_\_\_\_\_

### ***A. Income Tax Compliance – Canada***

- Obtain and review prior years' tax returns.
- Prepare and file any unfiled tax return for previous years.
- Prepare a tax return for January 1 to date of death (Section K)
- Request tax clearance certificates for final return and estate return.
- Obtain Goods and Services tax clearances for businesses or rental properties.
- If there are non-resident beneficiaries, determine if a certificate of compliance (T2062) is required under section 116 of the Income Tax Act before making distributions to non residents.

### ***B. Tax Compliance – Other Countries and Jurisdictions***

- Prepare and file necessary income tax returns for assets in foreign countries.
- Prepare and file necessary estate tax returns for assets in foreign countries.
- If assets are held in other provinces or countries, confer with relevant jurisdictions.
- American citizens must file an estate tax return if their assets exceed \$60,000 even if no taxes are payable.

### ***C. Income Tax – Planning***

- If an RRSP value has decreased after the date of death, executors should take steps (file Form RC249 with CRA) to apply the loss against the RRSP income included on the final return. (***Tax Alert Issue 3-09 October 2009***)
- If a spouse is a beneficiary, review the tax options available for the transfer of funds to the surviving spouse.
- Analyze possible elections permitted under the federal Income Tax Act (Section E).
- Consider advantages of filing Rights and Things return (Section C).
- If there is more than one residence that qualifies as a principal residence, determine which one

should be elected as principal residence to minimize taxes.

- Consider electing that distributions to spouse take place at fair market value for tax purposes if advantageous.

#### ***D. Trusts***

- If an estate trust return will be required determine the estate's fiscal year end which may be up to 365 days from the date of death.
- File income tax returns for the estate during the period of administration.
- If the Will provides for trusts, set up testamentary trusts and arrange for ongoing review of the investments, and ongoing compliance within the terms of the trust, e.g. payment of income, encroachment on capital, etc.
- Prepare and file T3 Trust Information Return if required.

#### ***E. Canada Pension, Old Age Security and Provincial Tax Credits***

- Ontario property and Sales tax credits are not claimable in the year of death.
- The CPP death benefit should not be reported on the final return. Beneficiaries of the death benefit can include it in their income or it can be included on the T3 trust income tax return for the estate.
- If CPP or Old Age Security benefits are made beyond the year of death the repayment of those benefits is a deduction that will eliminate the original income.
- Both Canada Pension Plan and Old Age Security received in the month of death can be retained by the taxpayer even if received after death. If the amount is received before the date of death it is income on the final return. If the amount is received after death it is a right and thing (Section D). The same rule applies to other amounts such as Worker's Compensation.

#### ***F. RRSPs and RRIFs***

- Balances in RRSPs and RRIFs are taxable at the date of death at an amount equal to their fair market value if the spouse is not the RRSP beneficiary. Later payouts are reduced by the amount taxable at the date of death.

#### ***G. Separate Returns***

- A separate return can be filed for rights and things providing a separate return is filed within six months of the date of death. If a rights and things return is filed all qualifying income must be filed with the separate return. Rights and things amounts cannot be split between the regular return and the rights and things return.
- Other separate returns can be filed for 1) business, partnership or proprietorship income and 2) income from a testamentary trust accumulated since the end of the fiscal year.

#### ***H. Medical Expenses***

- A disability tax credit is available where an individual has a severe prolonged mental or physical impairment which is certified by a medical practitioner. The impairment must result from the fact that the individual's ability to perform a basic activity of daily living is markedly restrictedly. Revenue Canada interprets the word prolonged to be at least twelve months so someone for example who has been in a nursing home for part of the year prior to death should qualify.
- Medical expenses paid within twelve months after death are deductible on the final return.

### ***I. Income Tax Elections***

- Section 164 (b) – Right to offset capital losses arising in estate against capital gain on death.
- Section 70 (6.2) – Right to deem assets disposed of to a spouse or spousal trust to be transferred at fair market value.
- IT -305R4 (para 7) – Right of executors to allocate assets between spousal and non spousal trusts.
- Section 70 (7) (IT-207R) – Election to purify a spousal trust.
- Section 146 (8.1) – Designate RRSP proceeds received by estate to be received by spouse.
- Section 104 (21), (21.2) – Designation of trust income as capital gain from sale of shares eligible for \$500,000 capital gains deduction.
- Section 104 (13.1) – Trustees can elect a spousal trust to pay annual income tax instead of spouse beneficiary.

### ***J. Tax Responsibilities to Other Countries and Jurisdictions***

- Prepare and file necessary estate tax returns for assets in foreign countries.
- If assets are held in other provinces or countries, confer with relevant jurisdictions.
- Prepare and file necessary returns for foreign assets (e.g. US property) and pay balance owing to other government jurisdictions.
- If there are non-resident beneficiaries, determine if a certificate of compliance (t2062) is required under section 116 of the Income tax Act before making distributions to non-residents.

### ***K. Tax Return Preparation Issues***

- Returns Required** - Tax returns required include a tax return from January 1 to date of death (final return) and sometimes one or two others. Because these returns do not cover periods that end on December 31 (with rare exception) the normal government generated T4, T5's and other slips are not available. Consequently the calculation of income is a major bookkeeping process.
- Documentation with Return** - The final tax return should have a copy of the deceased's will and death certificate attached to the return.
- Final Return Due Date** - The final tax return is due at the later of six months after the date of death or April 30 of the following year.
- Additional Returns** - The income tax act allows a separate return to be filed for such things as amounts due but not yet received at the date of death. Filing of separate returns can spread income amongst several returns and reduce income taxes. Personal exemptions are not allowed on these additional returns.
- Deemed Disposition** - In addition to normal income between January 1 and the date of death, there will also be income from unrealized capital gains and undistributed RRSP/RRIF balances at the date of death. All of this is taxable on the final return.
- Creation of a Trust** - Seldom do the assets of an estate get distributed immediately on death (except possibly through joint ownership or beneficiary designations) so income will usually arise in the estate (trust) for at least a year after the date of death (Executor's year). The trust could go on for more than a year and additional special trusts may be set up in the will and often go on for years.
- Tax Losses** - The Income Tax Act allows capital losses on assets sold for up to 180 days after death to be carried back against income in the final return. This can easily happen in larger estates and is a valuable tool to utilize losses that otherwise may not be deductible - especially if shares of a private corporation are involved.

- ❑ ***Tax Clearance Certificates*** - Executors of an estate are personally liable for unpaid taxes. Executors should hold back enough estate assets from distributions to beneficiaries until they are satisfied that all taxes have been paid. CRA will give Clearance Certificates once assessments have been received which will allow executors to make distributions knowing they have no personal tax liability.
- ❑ ***Tax Free Transfers*** - The Income Tax Act often allows assets to be transferred (rollover) from the estate to certain beneficiaries are tax free. Sometimes these rollovers are not advantageous and they should be elected out of if possible.
- ❑ ***Information for Return Preparation*** - Because of the deemed disposition of assets on death, the need to allocate income to more than one return and the possible creation of multiple trusts, there is a great deal of accounting to complete the various filings correctly – to the benefit of the taxpayer and beneficiaries.

Our experience tells us that the following will be needed or at least helpful:

1. Copy of the will
2. Monthly brokerage statements for all accounts from January 1 to the end of the month of death.
3. Appraisals of all significant assets at the date of death.
4. Documentation of all self directed pension plans (RRSP's, RRIF's etc.) showing the value of the plan at the date of death and distributions to that time.
5. A copy of the last tax return filed to help determine all estate assets and sources of income for the final tax return.
6. Details of cost (for tax purposes) and fair market value at the date of death for the following assets.
  - a. Personal real estate
  - b. Business and investment real estate
  - c. Marketable securities
  - d. Art and antiques

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