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McCANN & ROQUE

CHARTERED ACCOUNTANTS

TFSA and Death: Have You Planned for What Will Happen With Yours if You Die?

If you own a TFSA, you undoubtedly started it because it allows you to invest and earn dividend or interest income and make a capital gain without paying tax.

Unfortunately, similar to any investment vehicle, complications may arise after your death unless you address the tax consequences in advance. Consider the following circumstances that can affect what happens with your TFSA after you die.

Successor Holder

If you have named a survivor — your spouse or common-law partner — as a successor holder, then that individual acquires all the rights of the original holder and thus becomes the new account holder.

With this scenario, the TFSA does not terminate and thus there are no tax consequences to the new account holder. An additional benefit may accrue if the original holder has over-contributed before they passed and the new account holder has contribution room in their TFSA.
In this situation, the over contribution by the deceased can be absorbed by the new account holder into their TFSA, thereby eliminating the chance of future over contribution penalties (currently at 1% per month).

Rollover Period

Assume for a moment that the deceased did not designate the spouse or the common-law partner as a successor holder. What then?

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If the spouse or common-law partner named in a will are accorded an inheritance that includes the TFSA, they can transfer their spouse's TFSA to their own TFSA within a prescribed time period, called the "rollover period." The rollover time-frame is explained as starting at the time of death until December 31 of the following year. During this rollover period the investment income is sheltered from income tax.

If the beneficiary decides to transfer funds to their own TFSA during the rollover period, these transfers are considered to be "exempt contributions" and as such do not require that the beneficiary have room in their own TFSA. However, the amount of the transfer is limited to the fair market value (FMV) of the TFSA as at the original holder's time of death. Thus, if at the time of death, the FMV was $50,000 but at the time of transfer the value of the TFSA was $55,000, then the $50,000 could be transferred without any impact. However, the $5,000 increase would either have to be absorbed by the beneficiary if they have room within their TFSA, or be included within the beneficiary's income within the year of the transfer.

Named Beneficiary

When you die without a spouse or common-law partner, the TFSA is collapsed at the date of your death. The amount of the TFSA can be transferred to the named beneficiary tax-free, but only up to the amount of the FMV of the TFSA at the date of death. Naturally, the beneficiary would need to have TFSA room to absorb the FMV transfer. For instance, if the beneficiary had $30,000 of accumulated TFSA room and the FMV of the transfer was $55,000, $30,000 would be transferred tax-free while the excess $25,000 would be included in income in the year of transfer.

Form RC 240

It is worth noting that when a contribution is made to the successor holder's TFSA, the successor holder has 30 days from the date of contribution to fill in Form RC 240, Designation of an Exempt Contribution Tax-free Savings Account (TFSA).

As you can see, there are potential tax complications with a TFSA when a taxpayer passes. Remember also that the provinces and territories are responsible for the rules governing the transfer of assets of a deceased. Fortunately, the CRA and their provincial/territorial counterparts have agreed that having the named beneficiary on the TFSA application will allow transfers without interjurisdictional complications. Quebec may be an exception, wherein the TFSA transfer goes to the estate and the will of the deceased comes into play.

Since TFSAs are registered with the CRA, an astute taxpayer would want to determine the tax consequences, either when their TFSA has a named survivor or when the will takes precedent.

It's probably worthwhile to confirm that we are aware that you have a TFSA. Then, should you die unexpectedly, we can assist your successor holders or beneficiaries.

The Eyes Have It

Better ways of viewing computer screens can reduce eye strain and increase productivity.

Regardless of occupation, we all spend an inordinate amount of time staring at computer, laptop or smartphone screens. The result is often eye strain known clinically as computer vision syndrome (CVS). Researchers suggest that between 50% and 90% of individuals who work with monitors for more than two hours a day suffer some form of symptom.

Shifting Focus

Working in front of a computer monitor stresses the eye muscles because our eyes move across the screen in the same way over and over again. Regardless of whether your eyes are jumping between screens or moving between the screen and a document on your desk, your eye muscles become fatigued. The need of the eyes to constantly shift focus and direction plus the monitor's flickering, contrast, and glare just adds to the stress on the eye that creates eye strain.

The Age Factor

Eye stress is also affected by age. As individuals move past 40, there is a noticeable degradation in the ability to focus on close objects. This change (called presbyopia) is a normal aging process that can usually be compensated for with eyeglasses, contact lenses, or surgery. If you do not correct presbyopia, you will be bothered by headaches and eye strain. Constant use of monitors without appropriate compensations increases problems with colour perception, blurred vision, double vision, dryness, red eyes, eye irritation, headaches, neck or back pain.

Relieving the Symptoms

Experts indicate the following processes are helpful for reducing CVS:

- **Correctly position the monitor.** The best position is straight ahead and tilted slightly down. This reduces the need to force the eye muscles to pull the eye up. The top of the computer monitor should not be higher than the level of your eyes.
- **Blink more.** Those working with monitors blink five times per minute versus a normal blink rate of 12 times per minute. Thus, the eye does not produce the tears that help prevent inflammation by keeping open the oil-secreting glands in the eyelids.
- **Place the monitor** (including your smart-phone) from 45 to 76 centimeters (18-30 inches) away from your eyes and tilt your screen to avoid glare from overhead lights. Glare creates eye strain.
- **Close the blinds**, reduce back and side light and consider a matte screen filter.
- **Consider using computer eye-ware.** There are numerous and conflicting articles as to whether "computer glasses" designed to better read the monitor and to reduce the blue light emanating from the screen are beneficial. Check with your optometrist as to whether there would be any benefit in having prescription "computer glasses" before buying those online bargains.
- **Give your eyes a rest.** The Mayo clinic suggests observing the 20/20 rule. Every 20 minutes look at an object that is at least 20 feet (six meters) away for 20 seconds to relieve the stress on the eye muscles and thereby reduce the progression of nearsightedness (i.e. the inability to see far-away objects clearly)

- Consider **changing the monitor's display settings.** Increasing the font size will reduce eye strain as will changing the contrast level on the monitor. Believe it or not, the best setting for using a monitor is the tried-and-true black text on a white background. Reducing the monitor's brightness level to replicate a standard piece of office paper is a preferred standard. For those using more than one monitor, ensure that both are matched to the same settings.

- **Size counts.** Buy a monitor that is at least 19 inches with anti-reflective surfaces. If within the budget, upgrade monitors to UHD.

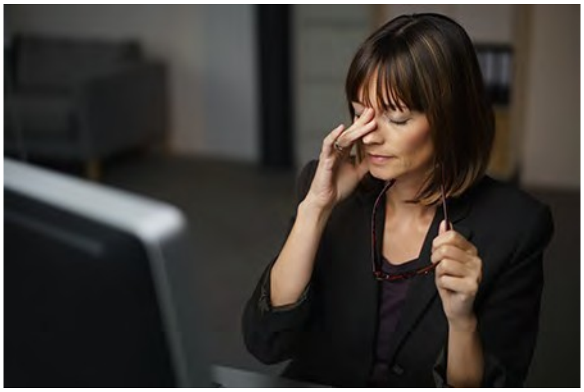
- **Reduce "visual noise."** Blue light is what makes the screen look better, but it is also harder on the eyes. The Canadian Association of Optometrists states:

  "*Computer screens and other digital devices emit significant amounts of blue light and people are spending more and more hours looking at them. The high energy blue-light waves scatter more in the eye and [the eye] is not as easily focused. This scatter creates "visual noise" that reduces contrast and can contribute to digital eye strain.*"

  The solution is to reduce the blue light emitting from the screen by reducing the brightness.

Eye Management

At the moment, there is no scientific evidence to suggest that constantly staring at monitors has any long-term impact on vision. However, from a productivity standpoint, eye strain and its accompanying maladies affect daily performance. To improve performance, owner-managers should review their computer location, office lighting and the other factors noted above to create a more comfortable and effective work environment. In addition, staff should be encouraged to have annual eye examinations and create work schedules that include breaks to reduce time staring at the computer.



Being in Control Comes With its Own Responsibilities

Henri Fayol, a French mining engineer, published one of the first principles of management guidelines in 1914. One of the more memorable of these was this:

> “Control of an undertaking consists of seeing that everything is being carried out in accordance with the plan which has been adopted, the orders which have been given, and the principles which have been laid down. Its object is to point out mistakes in order that they may be rectified and prevented from recurring.”

By necessity, owner-managers are required to be in control of every aspect of their business, since they’re ultimately responsible — and potentially liable — for matters including:

- sales and receivables
- purchases and payables
- banking and borrowing
- ensuring workplace and employee safety
- withholding and paying taxes
- collecting and remitting HST
- protecting data security and confidentiality
- addressing labour disputes
- co-ordinating a union

But what are the possible consequences should management be unable to fulfill all of these responsibilities?

Sales and Receivables

Not monitoring sales or collecting accounts receivable may mean going to small claims court to seek payment for receivables up to $25,000 (in Ontario). The cost of gathering data and time presenting yourself in court or hiring a paralegal may cost more than the amount that you’ll ultimately be writing off.

Purchases and Payables

Decide that you don’t want to pay an outstanding invoice with a supplier and you may be denied further service or product, which could bring your business to a standstill. At the very least, expect annoying collection calls — at the extreme end, you could face legal action that will swallow up your time and money while you defend yourself. Continuously bounce cheques, and suppliers may demand cash-on-delivery or reduce your credit status, thus also hampering your ability to produce product or deliver service.

Banking

If you do not control your bank balance and are routinely going into overdraft, you may have to manage with a poor credit rating, interest and overdraft charges, and holds put on your deposits.

Borrowing

Borrowing for any business asset puts the business and owner-manager at risk if the loan’s terms and conditions are not met.

- Caveats in lending contracts that are broken may result in the loan being called, creating a cash crisis in the business.
- Failure to repay a loan on a secured asset will result in the asset being seized — try running an operation without one of your key pieces of equipment.
- If you have signed a personal guarantee on a business loan, your personal assets may be subject to seizure as well.

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Safety

The consequences of neglecting safety within the workplace are multifaceted:

- Your business will be subjected to fines and penalties from WSIB (Workplace Safety and Insurance Board).
- Insurance and borrowing rates will increase in light of an accident.
- In severe situations, your worksite may be shut down for failure to comply with safety rules.
- If there is catastrophic injury or death, your business and you may be held personally liable as an officer or director of the company.

Withholding Taxes

Income tax, Canada Pension Plan (CPP) contributions and employment insurance (EI) premiums are considered "funds collected and held in trust by an employer." Because this money belongs to your employee, the Canada Revenue Agency takes a hard line for businesses who are not remitting:

> *"If you do not fulfill your obligations or comply with our payroll requirements, you may be assessed a penalty, interest, or incur other consequences.*
>
> *If you do not comply with the deducting, remitting, and reporting requirements, you may be prosecuted. You could be fined from $1,000 to $25,000, or you could be fined and imprisoned for a term of up to 12 months."*

[From the CRA website: Employer's Guide – Payroll Deductions and Remittances]

Income Tax

Not filing corporate income tax can mean fines and penalties if corporate taxes are owing, and potentially worse consequences. Although rare, jail time can result if a demand for filing is made and the business does not comply.

If taxes have not been filed for several years, the CRA may arbitrarily file a tax return and send the business a Notice of Assessment that says funds are owing. This usually encourages corporations to file their returns on their terms.

When tax returns have been filed, but income tax owing has not been paid, the CRA will freeze your corporate bank account. This effectively limits your ability to use that account to operate your business. Payroll, automatic deposits, automatic payments — in effect, all bank transactions — will come to an abrupt halt.

Data Security / Confidentiality

Organizations that are required to collect personal information as part of their normal operating procedures must also, "protect information against loss or theft as well as safeguarding the information from unauthorized access, disclosure, copying, use or modification." These requirements apply regardless of the format in which the information is stored.

Once this information is obtained, many private-sector businesses within Canada are required to follow the guidelines laid out in the *Personal Information Protection and Electronic Documents Act* (PIPEDA — note that a different provincial privacy legislation may apply in Alberta, British Columbia and Quebec). One section of this Act gives people a right to access their personal information held by your company. Employers are required to provide this information on request, so it is incumbent upon them to be able to access and provide it. There are some exceptions, so check with your legal counsel if you are not sure.

Labour Disputes

Becoming involved in unresolved labour disputes is an employer's worst nightmare, and it results in provincial Ministry of Labour or its equivalent getting involved in the dispute process. Management must be aware of employment standards, as well as those that apply to workplace health and safety.

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Union Negotiations

Employers make a serious error if they fail to treat unionized employees fairly, or do not submit deductions for union dues and other employee deductions required under a collective bargaining agreement. Not only will such an approach give rise to legal action for collection; it could also mean a union refusing to provide employees for projects that require unionized workers. The bottom line? Your business income suffers.

A successful owner-manager understands that, while they have the appearance of being in charge and in quasi-control of their company, that control is only valid if their operation complies with the multiplicity of third-party plans that have been adopted, external orders they've have been given and third-party principles laid down in laws or regulations.

How can an owner manager rectify and prevent the continuous invasiveness of third parties and thereby maintain control over their operations? It is only by fostering a culture of process and procedures within an organization that follow external rules and regulations.

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