FROM THE DESK OF:

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Welcome to Summer 2015! Whether you head to a festival, go to the forks, watch a Goldeyes game, take in a charity walk, or watch a movie at the park, we hope that you enjoy the moments, and take advantage of some of the great sights and activities available in our great city.

As always, call our office with any questions you may have, to review your plan, update your goals, or schedule a meeting.

Upcoming Events:

Business Owners Luncheon – September 22nd, 2015

Mother & Daughter Event - Investing 101 Workshop October 22nd, 2015

TAXATION OF ESTATES: CHANGES ARE COMING

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In the 2013 federal budget the federal government announced its intention to amend the tax provisions with respect to testamentary trusts (i.e., trusts created as a result of death). These were followed by specific proposals in the 2014 budget. On December 17, 2014, Bill C-43 received Royal Assent and brought into force many new income tax provisions.

One of the most widely discussed changes is that graduated tax rates will generally no longer be available to testamentary trusts. Beginning in 2016, income earned and retained by a testamentary trust will be subject to tax at the top flat tax rate, with the exception of a graduated rate estate and a qualified disability trust (QDT).

The graduated rate estate (GRE) is a completely new type of trust that comes into effect for income tax purposes beginning January 1, 2016. In general terms, a GRE is an estate that arises as a consequence of a death and can exist for up to 36 months following death provided the trust remains a testamentary trust. A GRE will be subject to the "old" graduated tax rate treatment. In simple terms, an estate will be treated as a GRE for up to

36 months immediately following the testator's death and during that time it will be eligible to utilize graduated tax rates. If the estate exists beyond the 36 month point following the deceased's death, the estate will no longer be a GRE and becomes subject to the top flat tax rate regime.

The estate representative can select any year end for the GRE; however, if the trust continues to exist beyond the 36 month point, the trust year end will convert to a December 31 year end from that year forward.

An estate typically remains open for the time needed by the estate representative to complete the work required to administer the estate, including activities such as identifying the assets, locating beneficiaries, and completing the estate distributions. The federal government suggests 36 months is a reasonable period for an estate to be treated favourably through GRE status because the majority of estates are typically wound up within this window of time.

EXAMPLE

Let's look at an example that highlights the year end for a new estate under the new regime.

Ted passes away on September 30, 2016 with a fairly complex estate which will likely remain open for an extended period of time. Ted's estate taxation year begins at the moment of death and will be treated as a GRE for up to 36 months from his date of death.

First tax return	April 30, 2017 (Selected by Ted's estate representative)
Second tax return	April 30, 2018 (12 months)
Third tax return	April 30, 2019 (12 months)
Fourth tax return	September 30, 2019 (36 months following Ted's death) – GRE period ends.
Fifth tax return	December 31, 2019 – Top flat tax rate
Sixth tax return	December 31, 2020 (12 months)

Any testamentary trust arising because of a death, other than a GRE or QDT, will now be immediately taxed at the top flat tax rate. For example, if Ted decides to establish a testamentary trust for each of his three children and their respective children, the three testamentary trusts will be taxed at the top flat tax rate if Ted dies after December 31, 2015. Using trusts to achieve specific testamentary wishes such as passing assets on to successive generations remains a valid estate planning tool, but the income tax consequences have changed somewhat dramatically.

A second significant change to the taxation of trusts was not addressed in the government's 2013 announcement or the 2014 budget but appeared in the final legislation. A spousal trust, alter ego trust and joint partner trust are all subject to a deemed disposition of their capital assets upon the death of the income beneficiary (second death in the case of a joint partner trust). This deemed disposition triggers the realization of any accrued capital gain in the assets held by the trust and is currently reported as income to the trust. For deaths after 2015, these capital gains will be taxed in the deceased beneficiary's terminal tax return and not the trust.

While the change seems simple because all it does is shift the income tax liability from the trust to the deceased, the implications may be significant, particularly in situations that cannot be changed.

EXAMPLE

Consider Mark and Mary, a married couple. This was a second marriage for each and both have children from a first marriage. At the time of Mark's death several years ago, Mark left the preferred shares of a family business to a spousal trust, with Mary as the beneficiary of the income earned in the trust. Mark's children were named the "capital" beneficiaries who would ultimately receive the shares at the time of Mary's passing. The business purchased a last-to-die life insurance policy on the lives of Mark and Mary. The intention was to use insurance proceeds to redeem a portion of the preferred shares held by the spousal trust in order for it to meet its cash flow needs relative to the income tax liability arising in the trust upon Mary's death. Mark and Mary's plan was designed with the current income tax rules in mind; insurance was going to provide the liquidity to fund the income tax liability.

Under the new regime, the tax liability resulting from the deemed disposition of the trust's assets will now arise in Mary's estate. This means that Mark's children, as capital beneficiaries of the trust, will inherit the remaining preferred shares from the spousal trust, plus the cash that the trust will receive from the redemption of shares from the business. Mary's estate will bear the income tax liability arising from the trust's deemed disposition of the shares, and only the residue of her estate will be available for distribution to her own beneficiaries. This is not what Mark and Mary would have intended based upon their planning objectives and the tax rules in effect when they undertook their estate planning.

Mark and Mary's situation involves a testamentary spousal trust; however, a similar situation arises with an *inter vivos* spousal trust as well as alter ego and joint partner trusts. In each of these scenarios, the tax liability is shifted from the trust to the deceased. Unless the deceased's estate has the same beneficiaries as the trust, an unanticipated inequity will arise. To the extent the deceased spouse's estate does not have sufficient funds to pay the resulting tax liability, the trust is jointly and severally liable.

Beyond the shift of the income tax liability, planning will also be significantly impacted because post mortem plans that depended on netting capital losses against capital gains will all need to be revised. The capital gain triggered by the deemed disposition will be reported by the deceased, but the capital loss created by a redemption will be realized in the trust.

Planners and clients will want to review the impact of these changes. Some clients will need to revise plans, and others may need to develop additional plans to deal with those situations that cannot be changed.

This article was written by Deborah Kraft and Jim Kraft and was published in the 289-2015 issue of COMMENT. Posted with permission from the Financial Advisors Association of Canada (Advocis) and The Institute for Advanced Financial Education.

We are excited to welcome to our newest Team Member –

Kathaleen Vermette!

Kathaleen comes to us with over 8 years of experience in the banking industry. Her strong values for providing a high level of customer service, her integrity and her attention to detail, make her a great fit on our team.

Kathaleen is a very hands-on mother of 4. If her kids are on the team or at the club, you can count on Kathaleen to be there helping out, coaching and cheering them on.

Kathaleen will be the main contact for booking your appointments, RSVPing for events, and working with Juana on the administration of your accounts.

Her regular office hours will be:

Monday–12-5pm	Wednesday–9-4:30pm
Thursday-9:4:30pm	Friday – 9:12pm

Feel free to give her a call or send her a quick email to say Hello!

The lastest federal budget brought some significant changes that impact many of our clients, including changes to the TFSA limits, as well as changes to the minimum withdrawal amounts from RRIF's. As well, the tax treatment of testamentary trusts was also significantly changed recently.
I am reminded, therefore, that it is important to regularly update your financial planning as well as your estate planning, since things really do change!

Please consider calling me or booking a review meeting if you have questions or concerns.

Can you believe that Tax-Free Savings Accounts (TFSA) have been around for 5 years?

We find that many people still have misunderstandings about the basics of these accounts.

Can you answer these 5 true or false questions correctly?

1. Like an RRSP, contributions to a TFSA are tax deductible. (false)
2. If you don't contribute your maximum allowable room, the unused amount can be carried forward. (true)
3. TFSA accounts can hold a range of investment options, including stocks, bonds, mutual funds. (true)
4. You can only open TFSA accounts at banks and credit unions. (false)
5. Contributions are based on your income. (false)

To learn more about Tax-Free Savings Accounts and discuss whether this may be an appropriate investment strategy for your own personal situation, please call or email our office!

HOLIDAYS & BUSINESS TRAVEL

Office Closed:

- Civic Holiday – August 3rd, 2015
- Labour Day – September 7th

David Out of Office:

- July 29th – September 2nd

Juana Out of Office:

- July 15th– 29th

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