FROM THE DESK OF:

David Bardal, CLU, CH.F.C, CFP
Senior Financial Planning Advisor

Juana Baldwin, CFP, CHS
Financial Planning Advisor

Assante Financial Management Ltd.

Best Wishes for the New Year. May it bring you and your family health, happiness, peace and prosperity. May it see your hopes fulfilled and may it be rich in the successful accomplishment of your highest aims.

As always, call our office with any questions your may have or to book your 2015 planning meeting, to update your goal tracking and sure you are on track with your financial plan.

RRSP deadline for your 2014 deposits is Monday, March 2nd, 2015

TFSA additional deposit amount for 2015: $5,500

Upcoming Events:

Business Owners Luncheon – January 8th

Spring Client Education Event – details will be on our website soon!

BENEFICIARY BEWARE

Source: CLU Institute Comment

Every taxpayer is responsible for paying his own income tax liability when it is due. To the surprise of many, there are situations when the Canada Revenue Agency has the right to utilize an alternative remedy if individuals or their representatives fail to comply. Even more shocking for some is that individuals named as beneficiaries under an RRSP or RRIF can unwittingly become indebted to the CRA.

The death of an RRSP or RRIF annuitant creates an income inclusion for the deceased equal to the fair market value of the property held within the RRIF or RRSP. This income amount is included in the annuitant's income for the year of death, adding to other tax liabilities that may arise in the final tax return. There are some rollover situations that create exceptions to the general rule. For example, when the deceased's spouse or financially dependent children or grandchildren are named as beneficiaries, the flow of the funds can create an offsetting deduction for the deceased and eliminate the tax liability that would otherwise arise from the deemed disposition at death of the RRSP or RRIF. Through these rollover exceptions, an amount equal to the RRSP "refund of premiums" or RRIF "designated benefit" (which is essentially the value of the plan at the date of the annuitant's death) offsets the deceased's income inclusion. Funds are then taxed in the hands of beneficiaries when withdrawn from the plan.

When a beneficiary receives RRSP or RRIF funds directly under the terms of the plan, and no rollover applies, that beneficiary becomes jointly and severally liable together with the deceased for the amount of taxes owing in respect of the proceeds received. If an estate receives the proceeds directly as the beneficiary of the plan, it is the estate that is liable for the taxes owing. A beneficiary of the estate who subsequently receives funds from the estate is not jointly liable.

The estate is normally responsible for paying the deceased's tax liability including that which arises from the deemed disposition of any RRSP and RRIF assets. When there is a deficiency of funds available within the estate, a beneficiary's joint and several liability extends the CRA's reach, providing a remedy for recovering amounts owing. The CRA cannot demand all of the RRIF or RRSP proceeds, but rather the remedy is limited to the collection of taxes owed in respect of the RRIF and RRSP proceeds.

In a June 2013 decision by the Tax Court of Canada, Justice Rowe reinforced a prior court's decision with respect to how the amount owing by a beneficiary under a joint and severable liability is to be calculated. The ruling sets out the degree of exposure that arises when an estate lacks sufficient resources to fund the tax liability specifically related to the RRIF or RRSP.

In *Higgins vs. the Queen* the facts are as follows:

Arthur Higgins passed away on February 12, 2002.

- He had a non-registered segregated fund policy valued at $10,192, with his two daughters named as beneficiaries.
- He had a RRIF of $29,272, also with his two daughters named as beneficiaries. They were not financially dependent on him.
- He had a small bank account that was used to pay for funeral expenses.
- By the time the case was heard by the court, the estate owed taxes, interest and penalties totaling approximately $18,000.

The CRA assessed each of the sisters for $5,096 in respect of the property received as beneficiaries under their father's segregated fund policy, and $6,047 each in respect to the sisters' joint and several liabilities for tax in respect of their father's RRIF.

In determining a beneficiary's exposure to the annuitant's income tax liability in respect of an RRSP or RRIF, Justice Rowe reconfirmed a prior court's approach that utilized a two-step calculation. The first is to calculate the deceased's tax liability on his final tax return without the RRSP or RRIF proceeds reflected in the income calculation. Then, the tax liability is recalculated with the inclusion of the RRSP or RRIF proceeds. The difference between the income tax liabilities arising under each scenario becomes the beneficiary's exposure under the joint and several liability provisions for income taxes. In this case, the CRA was ordered to re-assess the two daughters' shared liability.

There remained the issue of the daughters' liability pursuant to their status as beneficiaries of the segregated fund. The judge undertook an extensive review of the word "transfer" and implications in respect of beneficiary designations under insurance policies. The bottom line of the judge's review is that the CRA could not assess the daughters for their father's income tax liability in respect of the funds they received as designated beneficiaries under the segregated fund policy. The funds received were considered life insurance proceeds payable to a named beneficiary and did not form part of the father's estate.

Very few people like to pay taxes, and even fewer people want to pay someone else's. Beneficiaries should be aware of the CRA's ability to collect taxes, particularly when the funds flow directly through a RRIF or RRSP beneficiary designation.

This article was written by Deborah Kraft and Jim Kraft and was published in the 287-2014 issue of COMMENT. Posted with permission from the Financial Advisors Association of Canada (Advocis) and The Institute for Advanced Financial Education.

If you have questions about your beneficiary designations, please do not hesitate to get in touch with us!

HOLIDAYS & BUSINESS TRAVEL

David & Juana Business Travel

- Annual Alberta trip – June 2015

Office Closed:

- Louis Riel Day - February 16th, 2015

Have you made your New Year's resolutions? This year, gain clarity around your goal setting by aligning your endeavors with your core self. We are happy to add your new undertakings to your financial dashboard to help keep you on track.

Do your new aspirations affect your financial plan? Should your plan be updated? Should we be changing or starting monthly deposits to your RRSP or TFSA accounts? Call us to discuss or to book your next meeting time.

Our mission is to continue to provide you with the best service possible. In 2015 we will be adding a new assistant to our team, as well as continuing to attend education sessions, and working closely with you to help you achieve your financial goals.

This is the time of year when most people pause to reflect. It is a time when we "count our many blessings" and look ahead to the New Year in anticipation of the what lies ahead. It is my hope that all of you had a wonderful holiday season and that 2015 is your best year yet!

1345 Taylor Avenue, Winnipeg, Manitoba, R3M 3Y9
www.juanabaldwin.com ● www.davidbardal.com
P: Juana at 204.977.8068 ● P: David at 204.977.8007
F: 204.943.1561