

Tax Tidbits – May 2015

How to obtain a trust account number

Trustees can apply for a trust account number before the first T3 return is filed using the Form T3APP *Application for Trust Account Number*.

The advantages of having a Trust account number assigned before the first T3 return is filed include ensuring that tax payments are applied to the correct account and obtaining a third party authorization with the CRA¹.

Form T3APP is available on the CRA's website² and within the T3 Taxprep software.

The completed Form T3APP should be sent to the CRA along with a copy of the signed trust document or Will and death certificate.

Please contact [Jody Hatto](#) of the Manning Elliott Tax Team for assistance with Form T3APP.

Executor fees – do I have to report that?

People often name their children and friends as executors for their wills regardless of whether they perform such duties as part of their regular occupations.

Where an individual who does not normally act in the capacity of an executor in the course of their business receives executor fees, the compensation is treated as income from an office or employment.

Often overlooked is the fact that the estate is required to report the fees on a T4 Statement of Remuneration Paid issued to the executor. In order to do so, the estate must open a payroll account with the Canada Revenue Agency ("CRA") and remit income tax withholdings by the 15th of the month following the month in which the fees are paid. Fees are not subject to Employment Insurance ("EI") premiums but are considered pensionable earnings for Canada Pension Plan ("CPP") purposes.

Failure to make the required withholdings and failure to file the forms on a timely basis will result in penalties.

Please contact [Dagmar Zanic](#) of the Manning Elliott Tax Team for further information.

¹ By filing a completed Form T1013 *Authorizing or Cancelling a Representative*

² <http://www.cra-arc.gc.ca/E/pbq/ff/t3app/README.html>



TAXATION OF TESTAMENTARY TRUSTS

A testamentary trust is a trust created through a Will. Currently testamentary trusts have many benefits including access to graduated personal tax rates which may result in annual savings of approximately \$10,000 in federal taxes.

Under the new legislation all testamentary trusts will have a deemed year end on December 31, 2015 and from that point on will pay tax at the top personal tax rate. This means that there will no longer be a tax benefit to having income earned through a testamentary trust. However a graduated rate estate (“GRE”) will be afforded a number of benefits including access to the graduated personal tax rates. What is a GRE?

- An estate that arose as a consequence of an individual's death no more than 36 months ago.
- The estate must be designated by the executor as a GRE on the tax return filed for its first taxation year.
- Only one GRE is permitted for each individual.

The GRE will have the ability to select an off calendar year end and will have access to graduated personal tax rates. On the day that is 36 months after the individual's death the GRE will have a deemed year end and lose its GRE status.

Please contact [Sheryne Mecklai](#) of the Manning Elliott Tax Team for further information and planning opportunities regarding testamentary trusts.

Donations by Will – the new regime

New tax rules will significantly affect donations made by Will and apply to deceased taxpayers and their estates effective January 1, 2016.

Currently, for deaths up to the end of 2015, gifts to qualified donees made by Will are deemed to have been made by the deceased immediately before death. The donation tax credit is then available to be used in the year of death, or carried back to the immediately preceding year.

This is particularly beneficial if there are significant capital gains triggered by the deemed disposition on death. Any unused donation credits are not available for carry forward to the deceased's estate.

Under the new rules, gifts made by Will are deemed to have been made by the estate and at the time the property is actually transferred to a charity. Provided that the donation is made by a





GRE (see definition in article above) the donation may be allocated between the deceased and the estate in the following manner:

1. By the deceased individual in the year of death, or immediately preceding year;
2. By the GRE in the year of donation, or any prior year of the estate; or
3. In any of the next five taxation years of the estate.

Clearly this provides more flexibility for taxpayers with regard to fully utilizing the donation credits. However, two significant aspects of the change may be less beneficial to taxpayers.

First, in contrast to the current treatment, for deaths occurring after 2015 there is no option for a surviving spouse or common-law partner to claim the donation credit.

In addition, as noted above, a GRE loses its status 36 months after the date of death. Therefore, under the new rules, if the donation is not made within the first three years after death, the estate will no longer be considered a GRE and will be unable to carry back the charitable donations to the deceased's final return.

These changes require additional consideration prior to 2016 to ensure your tax planning objectives are achieved. Should you require assistance navigating these new post mortem tax waters contact [Dario Bon](#) of the Manning Elliott Tax Team.

And More...

- **Tax officials raid Uber's Montreal offices**

It was reported in the Globe and Mail that 20 Revenue Quebec investigators raided two Montreal offices of ride-sharing service Uber Technologies Inc. It is believed that Revenue officials were looking for proof that Uber is not collecting the appropriate taxes from the drivers. Previously, inspectors with Montreal Taxi Bureau had been granted special powers to seize UberX vehicles and more than 40 cars have been seized. Looks like a pretty rough ride for Uber drivers in Quebec!

- **Don't go phishing!**

It has also been reported that thousands of CRA employees fell for a fake phishing e-mail test. A security test by the CRA's security and internal affairs division found that approximately 3,500 employees fell for the phony e-mail phishing scam...even though they had advance notice that the test would take place! A spokesperson for CRA stated that "there was never a risk to taxpayer information throughout the exercise. The CRA's systems are safe and secure." Hmmm! Food for thought.

