



SOMEONE HAS PASSED AWAY— NOW WHAT?

Coping with the loss of a loved one is difficult. Often, dealing with income tax filing requirements is the farthest thing from people's minds. However, the income tax liability associated with one's final tax return is often quite significant. If deadlines are missed, undue penalties and interest will result. This month's newsletter will review the first steps that representatives should take following the death of a loved one.

Are you the Legal Representative of the Deceased

Your responsibilities with respect to income tax reporting requirements will depend on whether or not you are the legal representative of the deceased. Typically an executor, or multiple executors, would be appointed in the will of the deceased person. In the absence of a will, it is also possible to be appointed as the administrator of the estate by a court. As the legal representative of the deceased, your responsibilities under the Income Tax Act include the following:

- ◆ Filing all required returns for the deceased including unfiled prior year returns;
- ◆ Ensuring that all requisite taxes are paid;
- ◆ Advising beneficiaries of distributions from the estate which are taxable, if any.

Our goal is to provide updates on topical accounting and tax issues. Information contained in this newsletter is not meant to be a comprehensive summary of the issues raised. Rather, we wish to bring what we believe to be important issues to the attention of our valued clients and readers. We would be pleased to discuss any questions that you, the reader, might have in greater detail.



What should you Do First?

Each of the responsibilities above requires the legal representative to obtain an understanding of the deceased person's historical tax reporting and records. The representative will also have to determine the assets owned by the deceased at the time of their death and

generally the value of these assets as well. This can be a challenging process. If you are unfamiliar with the process, your first step should be to seek professional advice.

We recommend that as soon as possible after the date of death that a copy of the death certificate, a complete copy of the will or other legal document which appoints you as the representative, and the updated mailing address for the deceased (your address) be submitted to the Canada Revenue Agency (“CRA”). Where you wish to appoint a professional as an additional authorized representative to deal with CRA on tax matters on your behalf, Form T1013 – *Authorizing or Cancelling a Representative* should also be signed and submitted.

“ *Your first step should be to seek professional advice.* ”

Providing this information to the CRA serves two purposes:

- ◆ Where the deceased was eligible for certain benefits such as the GST credit, or the Canada Child Tax Benefit, notifying the CRA of the date of death is important so that payments can be stopped and transferred to survivors as necessary. Similar information should also be provided to Service Canada so that benefits such as the Canada Pension Plan or Old Age Security can also be stopped or transferred. Funeral homes often assist with this process so we recommend discussing this with your funeral director so that you have a clear understanding of what communications you will be responsible for.



- ◆ As a representative, you or the professional assisting you with the tax reporting can communicate with the CRA with respect to previous tax filings, instalments and slip information that the CRA has on file. This information is invaluable in assisting you in ensuring that all required filings are complete.

Important Dates and Deadlines

It is also important to determine what the reporting deadlines are early in the process. The deceased’s final tax return and any balance owing are due on or before the following dates:

| Period When Death Occurred | Due Date |
|----------------------------|------------------------------------|
| January 1 to October 31 | April 30 of the following year |
| November 1 to December 31 | Six months after the date of death |

If a person dies after December 31, but on or before the filing due date for his or her return for the immediately preceding year (usually April 30), and the person had not yet filed a return, the due date for filing the return, as well as paying any tax owing, is six months after the date of death. The due date for filing the tax return of a surviving spouse who was living with the deceased is the same as the due date for filing the deceased’s final return. However, any balance owing on the surviving spouse’s return still has to be paid on or before April 30 of the following year to avoid interest charges. Finally, where the

deceased or a surviving spouse were self-employed in the year, extensions to the filing deadlines outlined above can apply.

We recommend that you document the filing date and work to ensure that the return is filed in a timely fashion to avoid penalties and interest for late filing.

Conclusion

A detailed discussion of the reporting required on the final tax return of a deceased taxpayer is beyond the scope of this newsletter. Navigating the estate administration process and the related income tax reporting is not a straightforward process. Should you have any questions about the information covered in this newsletter or the specific income tax rules associated with a deceased person's final tax return, please do not hesitate to contact us.



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