Macdonald, Shymko & Company Ltd.
Fee Only Financial Advisors / Portfolio Manager
Since 1972

Wealth Monitor

Summer 2018

Who Are Spouses In Estate Law?

If you think the answer is pretty straightforward, think again. BC's Wills, Estates and Succession Act (WESA) says that two people are spouses if they live together in a 'marriage-like' relationship. That has generally been understood to require cohabitation. However, a recent decision by the BC Supreme Court has extended this boundary.

In Connor Estate 2017 BCSC 978, Mr. Chambers applied for a declaration that he was the spouse of the deceased Ms. Connor, despite never having lived in the same dwelling as Ms. Connor. Furthermore, Mr. Chambers was married to another person for most of the years that he and Ms. Connor had an intimate relationship. Mr. Chambers did not separate from his wife until three years before Ms. Connor's death.

Ms. Connor died without a Will; she had no children and her parents had pre-deceased her. Under the intestacy rules, if Ms. Connor had a spouse, her entire estate would pass to her spouse: if she did not, her estate would be divided among five half siblings, whom she apparently did not know.

There was evidence from friends and family members of both Mr. Chambers and Ms. Connor that they presented themselves as a couple. Prior to her death, Ms. Connor made Mr. Chambers the beneficiary of her RRSP and had also told him that a Will had been created, leaving the entirety of her estate to him. No Will was ever found.

The court confirmed that even though Mr. Chambers had been married to another person during most of this relationship with Ms. Connor, it is possible to have two spouses as the same time – a legally married spouse and a 'marriage-like' spouse.

The court also confirmed that there is no checklist of characteristics that will invariably be found in all marriages and "objective evidence of the parties' lifestyle and interactions will also provide direct guidance" on whether the relationship was marriage-like.

This case has opened the door for potential claims of spousal status, either on intestacies or in Wills variation claims. A prudent practice is to ensure you have a valid and current Will in place and to discuss with your Advisor if there are any doubts of potential 'skeletons in the closet'. We are in your corner!

"There are many kinds of risks…but volatility may be the least relevant of them all."

- Howard Marks

Inside This Issue:

MSC NEWS

Welcome to New Staff Members

Welcome to the newest addition to the MSC team: **Mary Habachi**. Mary is working in the Admin Team and is also the warm face that will greet you when you come into our offices at 510 Burrard Street.

Notable Achievements

Upholding our firm's commitment to professional development, a number of MSC staff have made notable progress earning professional designations. In particular, congratulations are in order for **Tim Stranks** who passed the FPSC Level 1® exam, as well as **David Thill** and **Denny Oenar** who both completed the Chartered Investment Manager (CIM®) designation.

Ongoing Professional Development

On top of making it through Income Tax season unscathed (arguably our busiest time of year!), Advisors have also been attending various seminars. David Shymko and Ian Black represented MSC at the Society of Trust and Estate Practitioners (STEP) Canada National Conference in Toronto before conducting an educational Lunch and Learn session to impart their updated wisdom to the rest of the team.

MSC also welcomed an industry expert into the Office in July to conduct a refresher session on the threats of *cyber-attacks* as well as to provide an update on the ever-changing world of financial services compliance and anti-money laundering regulations.

Q&A SESSION: TAX-FREE SAVINGS ACCOUNT

According to CRA Statistics, the average Canadian has over $20,000 of unused TFSA contribution room. One of the elements we pride ourselves on here at MSC is the ability to educate our clients to better understand the decision-making process when it comes to successful financial planning and investing.

Below are five TFSA-related questions that will test your knowledge and may even teach you something new – give them a shot before flipping to the back page of the newsletter to see the correct answers.

Q_1: If you make your full $5,500 contribution to your TFSA in January and withdraw $3,000 in June of the same year, how much can you contribute back into to your TFSA in November?

Q_2: If you borrow money for the purpose of investing, it is widely known that you can claim the interest charge as a deduction on your personal income tax return and reduce the amount of taxes you have to pay. Can you claim the deduction if your borrowed funds are invested in a TFSA?

Q_3: Are all investment returns generated in a TFSA income-tax free?

Q_4: What tax credits can you claim on investments held within a TFSA?

Q_5: Will my designated beneficiary inherit my TFSA tax-free?

Let us know how you get on. Good luck!

Source: https://www.canada.ca/content/dam/cra-arc/migration/cra-arc/gncy/stts/tfsa-celi/2015/tbl03-eng.pdf

UPDATE ON THE SMALL BUSINESS TAX CHANGES

Back in Fall 2017, we promised a deep dive into the Small Business Tax changes made by Finance Minister Morneau and the Liberal government. We have not forgotten about this.

As mentioned back in October, here at MSC we don't speculate. The proposed changes have now received Royal Assent but due to the lack of definition surrounding the nuances of these tax changes, there is not enough clarity to offer concrete insight on the topic. We are in communication with various Corporate Tax Professionals, the Coalition for Small Business Tax Fairness (through our professional association, the Institute of Advanced Financial Planners), and receive constant updates when attending our ongoing professional development seminars across the country; as you can imagine, this topic was widely discussed at the STEP Canada National Conference.

We have communicated with many Clients who are directly affected by these ongoing changes and are always happy to talk if you have any questions on the matter. In the meantime, we will continue to keep an ear to the ground, wait for direction from relevant sources and report back in due course.

MSC IN THE PRESS

MSC Advisors appeared:

March 9, 2018

Morningstar Personal Finance Column, "Should you give your children their inheritance now?" (Ian Black)

July 20, 2018

Globe & Mail Financial Facelift, "How can this couple owning five rental apartments …" (Brinsley Saleken)

Please monitor our MSC website or Facebook site to read our latest articles.

www.macdonaldshymko.com

MISCELLANEOUS ITEMS

Online Bill Payments:

As always, a reminder that MSC clients can pay their MSC statements online: this can be set up with your financial institution's online "bill payment" option.

ACCUMULATING FREQUENT FLYER POINTS FROM BUSINESS EXPENSES

Are you one of the savvy individuals who has previously paid for business travel expenses using your personal credit card, in an attempt to accumulate frequent flyer points? If so, you have probably encountered that this used to be considered a taxable benefit by CRA. The value of points accumulated from this type of activity previously had to be included in your taxable income, regardless of whether you used the points or not! Well, if this was a speed bump to your attempts to reduce the costs of your summer vacation flights in the past, we have good news for you: this is no longer the case!

The value of points accumulated on a personal credit card for business travel no longer has to be included in your taxable income. Be careful though, because if your employer controls the points accumulated, as is the case with a corporate credit card, you will face tax on any points used for personal travel. So if you are planning to save and redeem those hard-earned points for your next vacation, it makes more sense to use your personal credit card to pay for work-related expenses, rather than a corporate one!

Of course, there are exceptions to this:

1) If you choose to convert your points into cash, rather than redeeming them on airfare, the value of the points earned would be considered taxable income.

2) If the value of frequent flyer points earned are considered a form of compensation from your employer, you must include them in your personal income tax return.

If you travel a lot for work, or you find yourself accumulating a large number of points on your corporate credit card, it may be worth rethinking your financing approach with these CRA changes having come into effect.

Every little bit helps when saving up for a summer vacation for the family!

Q&A SESSION: TAX-FREE SAVINGS ACCOUNT

Okay, here are the answers from our TFSA quiz on page 2:

A$_1$: $0 – If you make a withdrawal from a TFSA, you do not lose your contribution room like with an RRSP, but you do have to wait until the following year before you can recontribute. This is a common mistake made by investors which typically leads to incurring the 1% monthly overcontribution penalty.

A$_2$: No – Interest is only deductible if you are borrowing money to invest in a non-registered account. Furthermore, the investment must be eligible property that produces income (e.g., dividends, interest or rent) or is expected to produce income in the future.

A$_3$: No – Many investors may make this assumption and for the most part this is true. However, if you hold a U.S.-based investment in your TFSA, the 15% withholding tax on U.S dividends still applies. RRSPs and RRIFs, on the other hand are exempt from this tax.

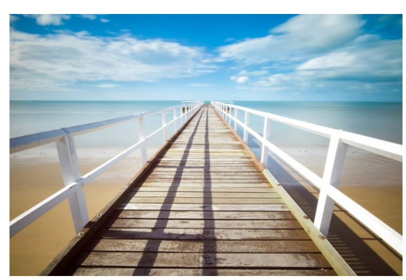
A$_4$: None – This includes dividend tax credits, as well as the recognition of capital losses to offset future gains. In some cases, if you have run out of RRSP contribution room, it may make sense to hold your dividend producing investments in a non-registered account in order to take advantage of these tax breaks.

A$_5$: Yes – If your designated beneficiary is a *successor holder*, e.g., spouse or common-law partner, then your TFSA will roll over to them tax-free. Similarly, any other designated beneficiary will inherit, tax-free, the value of the TFSA at death, but will be taxed on any capital gains or income earned in the account after this date.

We hope you managed to get some of these questions right. If not, take solace in the fact that you have learned something new! Feel free to contact your Advisor if you have any questions.

THANK YOU FROM MSC

MSC is a client referral-based firm and we thank you for referring your family, friends and coworkers to us. We appreciate our clients' ongoing loyalty and trust in our services; we are fortunate to have many long-term client relationships that have continued for decades, some more than 40 years!



Please feel free to send this newsletter to others you think may benefit from a Fee Only Financial Planner. Our newsletters can also be viewed at:

www.macdonaldshymko.com/financial-resources/articles-and-newsletters

Since 1972

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