

December 15, 2015

**The Retired Teachers of Ontario/
les enseignantes et enseignants retraités de l'Ontario (RTO/ERO)**

M E M O R A N D U M

To: District Presidents, First Vice-Presidents
Cc: Provincial Executive
From: Simon Leibovitz, Director of Administrative and Member Services
Re: **Estate Tax Administration Act:
Revised Regulation (90 Day Provision)**

Background Information

The Estate Administration Tax Act (EATA) was originally passed in 1998. It refers to the payment by Trustee Administrators or Executors of an administration tax, commonly known as probate fees.

In response to queries about a new Regulation passed under EATA earlier this year, Provincial Office staff sought clarification from legal counsel about the impact of the Regulation as well information about specific savings plans belonging to deceased individuals.

New Regulation

In January 2015, a new Regulation under EATA was enacted related to information required under various sections of the Act. One section states that trustees must provide information about the deceased person as prescribed by the Minister of Finance. Another states that the information must be provided within a timeframe prescribed, but when the Act was passed, that timeframe was not outlined. A third section of EATA states that the previous section about the timeframe applies to applications for estate certificates (probate) made on "or after such later date as may be prescribed by the Minister of Finance."

The "later date" is what was prescribed in the new Regulation passed in January 2015. It basically states that information about a deceased person must be provided by the estate representative (trustee) no later than 90 days after an estate certificate is issued.

The new Regulation also prescribes the information that is requested, including: Name, Address, Date of Birth, Date of Death, complete list of assets, Name and contact information for estate representative, and the date on which the certificate was issued. It also requires the estate representative to update or amend information previously provided if it is determined that that information was incomplete or incorrect when initially communicated.

Most importantly, **Estate or Probate fees have not changed** as a result of the new Regulation. The regulation simply provides for the timeline of the reporting structure and the type of information required by the provincial government.

Savings Accounts

The new Regulation passed in January 2015 under the Estate Administration Tax Act **has no impact on the status of various savings accounts** belonging to a deceased individual. These plans, which include Tax-Free Savings Accounts (TFSA), Life Insurance policies, Registered Retirement Savings Plans or Income Funds (RRSPs or RRIFs), do not form part of one's estate, are passed on outside of a will and, therefore, are not subject to estate tax or probate fees.

While living, the holder of such savings accounts can designate a spouse/partner as a "successor holder" or designate a beneficiary such as spouse/partner, child or sibling. Upon death of a holder, successor holders acquires the savings account "as is" and while they cannot add monies to the account, they can either maintain it or transfer the funds to their own account.

In the case of beneficiaries, upon death, monies are distributed to them and the savings accounts cease to exist. The beneficiaries will have to account for added income on their own tax filings. If there are no successor holders or beneficiaries named, then the savings accounts do form part of the estate and estate tax/probate fees would apply.

For further information, please refer to the following websites:

<http://www.fin.gov.on.ca/en/tax/eat/>

<https://www.oba.org/Sections/Trusts-and-Estates-Law/News/Estates-Administration-Tax-Act-forms-and-filing>

[http://www.forms.ssb.gov.on.ca/mbs/ssb/forms/ssbforms.nsf/GetFileAttach/9955E~2/\\$File/9955E_Guide.pdf](http://www.forms.ssb.gov.on.ca/mbs/ssb/forms/ssbforms.nsf/GetFileAttach/9955E~2/$File/9955E_Guide.pdf)