Canada Revenue Agency Agence du revenu du Canada

# Tax-Free Savings Account (TFSA), Guide for Individuals

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Canada

## Before you start

### Is this guide for you?

This guide is intended for individuals who have opened or who are considering opening a tax-free savings account (TFSA). It provides general background on what this new investment opportunity is, who is eligible to open one, contribution limits, possible tax situations, non-resident implications, transfers on marriage or relationship breakdown, extensive coverage on what happens when a TFSA holder dies, and various other topics. For additional information on the TFSA, go to **www.cra.gc.ca/tfsa**.

This guide does not deal with every tax situation. It is not intended to cover all possible situations or to replace professional financial, tax, or estate planning services. As with any other important investment decisions, you should speak with your financial advisor or a representative at your financial institution to be sure you are aware of any conditions, limitations, or administrative fees that may apply.

### Definitions

We have included definitions of some of the terms used in this guide in the "Definitions" section starting on page 4. You may want to read this before you start.

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La version française de cette publication est intitulée *Guide du Compte d'épargne libre d'impôt (CELI) pour les particuliers*.

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# Definitions

**Advantage** – an advantage is any benefit, loan, or debt that depends on the existence of a TFSA other than: TFSA distributions, administrative or investment services in connection with a TFSA, loans on arm's length terms, and payments or allocations to a TFSA by the issuer, including bonus interest and other reasonable payments to a TFSA by the issuer.

An advantage also includes any benefit that is an increase in the fair market value of a TFSA that can reasonably be considered attributable, directly or indirectly, to one of the following:

- a transaction or event (or a series of transactions or events) that would not have occurred in an open market between arm's length parties acting prudently, knowledgeably, and willingly, one of the main purposes of which is to enable the holder (or another person or partnership) to benefit from the tax-exempt status of the TFSA;
- a payment received in substitution for either:
  - a payment for services rendered by the holder or a person not at arm's length with the holder; or
  - a payment of a return on investment or proceeds of disposition for property held outside of the TFSA by the holder or a person not dealing at arm's length with the holder;
- a **swap transaction** (see definition on page 6); or
- **specified non-qualified investment income** (see definition on the next page) that has not been distributed from the TFSA within 90 days of the holder of the TFSA receiving a notice from us requiring them to remove the amount from the TFSA.

An advantage also includes any benefit that is income (including a capital gain) that is reasonably attributable, directly or indirectly, to one of the following:

- deliberate over-contribution to a TFSA; or
- a **prohibited investment** (see definition on the next page) for any TFSA of the holder.

**Note**
If the advantage is extended by the issuer of a TFSA, or by a person with whom the issuer is not dealing at arm's length, the issuer, and not the holder of the TFSA, is liable to pay the tax resulting from the advantage.

**Arm's length** – at arm's length is a concept describing a relationship in which the parties are acting independently of each other. The opposite, **not dealing at arm's length**, includes individuals:

- related to each other by blood, marriage, adoption, or common-law relationships; or
- who act in concert without separate interests, such as those with close business ties.

An individual is not at arm's length with their TFSA.

**Common-law partner** – this applies to a person who is **not the holder's spouse** (see definition on page 6), with whom the holder is living in a conjugal relationship, and to whom at least **one** of the following situations applies. He or she:

a) has been living with the holder in such a relationship for at least 12 continuous months;

b) is the parent of the holder's child by birth or adoption; or

c) has custody and control of the holder's child (or had custody and control immediately before the child turned 19 years of age) and the child is wholly dependent on that person for support.

In addition, an individual immediately becomes the holder's common-law partner if they previously lived together in a conjugal relationship for at least 12 continuous months and they have resumed living together in such a relationship. Under proposed changes, this condition will no longer exist. The effect of this proposed change is that a person (other than a person described in b) or c) above) will be a common-law partner only after the **current** relationship with that person has lasted at least 12 continuous months. This proposed change will apply to 2001 and later years.

Reference to "12 continuous months" in this definition includes any period that they were separated for less than 90 days because of a breakdown in the relationship.

**Deliberate over-contribution** – a contribution that an individual makes under a TFSA that results in, or increases, an excess TFSA amount, unless it is reasonable to conclude that the individual neither knew nor ought to have known that the contribution could result in liability for a tax or similar consequences. Income that is reasonably attributable, directly or indirectly, to a deliberate over-contribution constitutes an advantage subject to the special tax on advantages.

**Excess TFSA amount** – the total of all contributions made by the holder to all their TFSAs at or before a particular time in the calendar year, **excluding** a qualifying transfer or an exempt contribution,

MINUS:

- the holder's unused TFSA contribution room at the end of the preceding calendar year;
- the total of all withdrawals from the holder's TFSA in the preceding calendar year, other than a qualifying transfer or a specified distribution;
- for a resident of Canada at any time in the year, the TFSA dollar limit for the calendar year; for any other case, nil; and
- the total of all withdrawals made in the calendar year from all of the holder's TFSAs, other than a qualifying transfer or a specified distribution, or the portion of the withdrawal that is more than the excess TFSA amount determined at that time.

**Exempt contribution** – a contribution made during the rollover period (see definition on this page) and designated as exempt by the survivor in prescribed form in connection with a payment received from the deceased holder's TFSA.

**Exempt period** – period that begins when the holder dies and that ends at the end of the first calendar year that begins after the holder's death, or when the trust ceases to exist, if earlier.

**Fair market value (FMV)** – this is usually the highest dollar value you can get for property in an open and unrestricted market between a willing buyer and a willing seller who are acting independently of each other. For information on the valuation of securities of closely-held corporations, see Information Circular IC89-3, *Policy Statement on Business Equity Valuation*.

**Holder** – the individual who entered into the TFSA arrangement and, after that person's death, the individual's surviving spouse or common-law partner and**, under proposed changes**, a subsequent survivor, if designated as the successor holder of the TFSA. A **successor holder** designation is effective only if it is recognized under applicable provincial and territorial law and the survivor acquired all of the deceased holder's rights under the TFSA including the right to revoke any previous beneficiary designation.

**Issuer** – a trust company, a licensed annuities provider, a person who is, or is eligible to become, a member of the Canadian Payments Association or a credit union with which an individual has a qualifying arrangement.

**Non-qualified investment** – any property that is not a qualified investment for the trust. See the definition of "Qualified investment" on this page.

**Prohibited investment** – this is an investment to which the TFSA holder is closely connected. It includes:

- a debt of the holder;
- a debt or equity investment in an entity in which the holder has a significant interest (generally a 10% or greater interest); and
- a debt or equity investment in an entity with which the holder, or an entity described in the previous bullet, does not deal at arm's length.

A prohibited investment does not include a mortgage loan that is insured by the Canada Mortgage and Housing Corporation (CMHC) or by an approved private insurer.

**Qualified donee** – the *Income Tax Act* permits qualified donees to issue official tax receipts for donations they receive from individuals or corporations. Some examples of qualified donees are registered charities, Canadian municipalities, registered Canadian amateur athletic associations, the United Nations or one of their agencies, or a university outside Canada that accepts Canadian students.

**Qualified investment** – an investment in properties, including money, guaranteed investment certificates (GICs), government and corporate bonds, mutual funds, and securities listed on a designated stock exchange. The types of investments that qualify for TFSAs are generally similar to those that qualify for registered retirement savings plans (RRSPs).

**Qualifying arrangement** – an arrangement that is entered into after 2008 between an issuer and an individual (other than a trust) who is at least 18 years of age, that is:

- an arrangement in trust with an issuer that is authorized in Canada to offer to the public its services as a trustee;
- an annuity contract with an issuer that is a licensed annuities provider; or
- a deposit with an issuer that is a person who is a member, or is eligible to be a member, of the Canadian Payments Association, or a credit union that is a shareholder or member of a "central" for the purposes of the *Canadian Payments Act*.

**Qualifying transfer** – a direct transfer between a holder's TFSAs, or a direct transfer between a holder's TFSA and the TFSA of their current or former spouse or common-law partner if the transfer relates to payments under a decree, order, or judgment of a court, or under a written agreement relating to a division of property in settlement of rights arising from the breakdown of their relationship and they are living separate and apart at the time of the transfer.

**Qualifying portion of a withdrawal** – that portion of a withdrawal from a TFSA (excluding a qualifying transfer or a specified distribution), made in the year, which was required to reduce or eliminate a previously determined excess amount.

**Rollover period** – the period that begins when the holder dies and ends at the end of the calendar year that follows the year of death.

**Self-directed TFSA** – a vehicle that allows you to build and manage your own investment portfolio by buying and selling various types of investments.

**Specified distribution** – a distribution from a TFSA to the extent that it is, or is reasonably attributable to, an amount that is:

- an advantage;
- specified non-qualified investment income;
- income that is taxable in a TFSA trust; or
- income earned on excess contributions or non-resident contributions.

A specified distribution does not create or increase unused TFSA contribution room in the following year, nor does it reduce or eliminate an excess TFSA amount.

**Specified non-qualified investment income** – income (including a capital gain) that is reasonably attributable, directly or indirectly, to an amount that is taxable for any TFSA of the holder (for example, subsequent generation income earned on non-qualified investment income or on income from a business carried on by a TFSA).

**Spouse** – this applies only to a person to whom the holder is legally married.

**Successor holder** – see "Holder" on the previous page.

**Survivor** – a survivor is an individual who is, immediately before the TFSA holder's death, a spouse or common-law partner of the holder.

**Survivor payment** – a payment received by a survivor during the rollover period, as a consequence of the holder's death, directly or indirectly out of or under an arrangement that ceased, because of the holder's death, to be a TFSA.

**Swap transaction** – a transfer of property (other than a contribution or distribution) that occurs between the trust and the holder of a TFSA or a person not dealing at arm's length with the holder.

**Unused TFSA contribution room** – the amount, either positive or negative, at the end of a particular calendar year after 2008, determined by the holder's unused TFSA contribution room at the end of the year preceding the particular year,

PLUS:

- the total amount of all withdrawals made under the holder's TFSA in the preceding calendar year, excluding a qualifying transfer or a specified distribution;
- the TFSA dollar limit for the particular year if, at some point in that year, the individual is at least 18 years old and a resident of Canada. In all other cases, the amount is nil.

MINUS:

- the total of all TFSA contributions made by the holder in the particular year excluding a qualifying transfer or an exempt contribution.

# What is a TFSA?

Since 2009, a tax-free savings account (TFSA) is a way for individuals who are 18 years or older and who have a valid Canadian social insurance number to set money aside tax-free throughout their lifetime.

Contributions to a TFSA are not deductible for income tax purposes. Any amount contributed as well as any income earned in the account (for example, investment income and capital gains) is generally tax-free, even when it is withdrawn.

Administrative or other fees in relation to a TFSA and any interest on money borrowed to contribute to a TFSA are not tax deductible.

Management fees related to a TFSA trust paid by the holder do not constitute a contribution to the TFSA. The payment of investment counsel, transfer, or other fees by a TFSA trust will not result in a distribution (withdrawal) from the TFSA trust.

## Types of TFSAs

There are three different types of TFSAs that can be offered: a deposit, an annuity contract, and an arrangement in trust.

Banks, insurance companies, credit unions, and trust companies can all issue TFSAs.

For more information about a certain type of TFSA, contact a TFSA issuer.

# Who can open a TFSA?

Any individual who is 18 years of age or older and who has a valid Canadian social insurance number (SIN) is eligible to open a TFSA.

You cannot open a TFSA or contribute to one until you turn 18. However, when you turn 18, you will be able to contribute up to the full TFSA dollar limit for that year.

**Example 1**
Julie turns 18 on May 13, 2012. She will not be able to open and contribute to a TFSA until that date. However, as of May 13, 2012, she can open a TFSA and contribute the full 2012 dollar limit of $5,000.

**Note**
In certain provinces and territories, the legal age (depends on the age of majority) at which an individual can enter into a contract (which includes opening a TFSA) is 19. In 2009 or later, in these jurisdictions, an 18-year-old who would otherwise be eligible accumulates $5,000 contribution room for that year and carries it over to the following year.

The account holder is the only person who can contribute to their TFSA. You can give your spouse or common-law partner money to contribute to their own TFSA without either that amount or any earnings on the amount being attributed back to you. The total of all contributions your spouse or common-law partner makes to their TFSA must not be more than their TFSA contribution room. For more information on TFSA contribution room, see "TFSA contribution room" on the next page.

# How to open a TFSA

You can have more than one TFSA at any given time, but the total amount you contribute to all your TFSAs cannot be more than your available TFSA contribution room for that year.

To open a TFSA, you must:

1. Contact your financial institution, credit union, or insurance company (issuer).
2. Provide the issuer with your valid social insurance number (SIN) and date of birth so that the issuer can register your qualifying arrangement as a TFSA.

If you do not provide this information or provide incorrect information to your issuer, the registration of your TFSA may be denied. If your TFSA is not registered, any income that is earned will have to be reported on your income tax return.

If the information that you provided to your issuer does not agree with the CRA's records, your issuer may ask for supporting documents.

## Self-directed TFSA

You can set up a self-directed TFSA if you prefer to build and manage your own investment portfolio by buying and selling different types of investments.

# TFSA contribution room

Starting in 2009, TFSA contribution room accumulates every year, if at any time in the calendar year you are 18 years of age or older, have a valid Canadian social insurance number and are a resident of Canada. Your TFSA contribution room is the maximum amount that you can contribute to your TFSA. **You will accumulate TFSA contribution room for each year even if you do not file an income tax and benefit return or open a TFSA**.

All TFSA contributions, including the replacement or re-contribution of amounts that you withdrew from the account during the year, count against your contribution room, with the exception of qualifying transfers or exempt contributions, which do not affect TFSA contribution room. You **cannot** contribute more than your TFSA contribution room.

If you over-contribute to your TFSA in the year, you will be subject to a tax equal to 1% of the highest excess TFSA amount in the month, for each month you are in an excess contribution position. For more information, see "Tax payable on excess TFSA amount" on page 14.

Investment income earned by, and/or changes in the value of TFSA investments will not affect your TFSA contribution room for the current or future years.

**Example 2**
John was eager to open his TFSA. He contributed the full $10,000 on January 4, 2010 ($5,000 from 2009 plus $5,000 from 2010). On the advice of his broker, he had opened a self-directed TFSA and invested in stocks that outperformed the market. By the end of 2010, the value in John's TFSA had increased to $11,800. John was worried that for 2011, he would only be able to contribute $3,200 (the TFSA dollar limit of $5,000 for 2011 less the $1,800 increase in value in his TFSA through 2010). Neither the earnings generated in the account nor the increase in its value will reduce the TFSA contribution room in the following year, so John can contribute up to another $5,000 in 2011 to his TFSA.

## Where can I find my TFSA contribution room information?

Your TFSA contribution room information can be found by going to one of the following services:

- My Account at **www.cra.gc.ca/myaccount**;
- Quick Access at **www.cra.gc.ca/quickaccess**; or
- Tax Information Phone Service (TIPS) at **1-800-267-6999**.

If you are not required to file an income tax and benefit return for the year, and decide not to do so, you will not receive a notice of assessment showing your TFSA contribution room.

You should keep records about your TFSA transactions to ensure that you do not exceed your TFSA contribution room. The CRA will also keep track of your contribution room and determine the balance of room at a particular time for each eligible individual based on information provided by the TFSA issuers.

## How is your TFSA contribution room determined

The $5,000 TFSA dollar limit is indexed based on the inflation rate. The indexed amount will be rounded to the nearest $500.

The TFSA contribution room is made up of:

- your TFSA dollar limit ($5,000 per year plus indexation, if applicable);
- any unused TFSA contribution room from the previous year; and
- any withdrawals made from the TFSA in the previous year, excluding qualifying transfers or specified distributions.

**Example 3**
In March 2009, Jack contributed $5,000 to his TFSA. He did not make any other contributions and he did not withdraw any funds in 2009. His unused TFSA contribution room at the end of 2009 was zero.

His TFSA contribution room at the beginning of 2010 was $5,000 (his 2010 TFSA dollar limit).

On June 15, 2010, Jack made a contribution of $500. On October 26, 2010, he withdrew $4,000.

His unused TFSA contribution room at the end of 2010 was $4,500 ($5,000 – $500).

Jack makes the following calculation to determine his TFSA contribution room at the beginning of 2011:

| **TFSA contribution room at the beginning of 2011** | | |
|---|---|---|
| TFSA contribution room at the beginning of 2010 | | $5,000 |
| Minus: Contributions made in 2010 | – | $500 |
| **Unused TFSA contribution room at the end of 2010** | | $4,500 |
| Plus: Total withdrawal made in 2010 | + | $4,000 |
| Plus: 2011 TFSA dollar limit | + | $5,000 |
| **TFSA contribution room at the beginning of 2011** | | **$13,500** |

An individual will not accumulate TFSA contribution room for any year during which the individual is a non-resident of Canada throughout the entire year.

The TFSA dollar limit is not prorated in the year an individual:

- turns 18 years old;
- dies; or
- becomes a resident or a non-resident of Canada.

## Notification of your contribution room

If you want to receive a *TFSA Transaction Summary* of your contribution and withdrawal details as received from your TFSA issuer(s), contact us.

## How is your TFSA information obtained?

By the last day of February of the following year, all issuers are required to electronically submit a TFSA record to CRA for each individual who has a TFSA.

If you disagree with any of the information on your *TFSA Room Statement*, or *TFSA Transaction Summary*, such as dates or amounts of contributions or withdrawals which your TFSA issuer has provided to the CRA, you should contact your TFSA issuer. If any information initially provided by the issuer regarding your account is incorrect, the issuer must send us an amended record so that we can update our records.

# Types of investments allowed

Generally, the types of investments that will be permitted in a TFSA are the same as those permitted in a registered retirement savings plan (RRSP). This would include:

- cash;
- mutual funds;
- securities listed on a designated stock exchange;
- guaranteed investment certificates (GICs);
- bonds; and
- certain shares of small business corporations.

## Foreign Funds

You can contribute foreign funds to a TFSA. However, your issuer will convert the funds to Canadian dollars, using the date of the transaction, when reporting this information to the CRA. The total amount of your contribution, in Canadian dollars, **cannot exceed** your TFSA contribution room.

If dividend income from a foreign country is paid to a TFSA, the dividend income could be subject to foreign withholding tax.

## "In kind" contributions

You can also make "in kind" contributions (for example, securities you hold in a non-registered account) to your TFSA, as long as the property is a qualified investment. You will be considered to have disposed of the property at its fair market value (FMV) at the time of the contribution. If the FMV is more than the cost of the property, you will have to report the capital gain on your income tax return. However, if the cost of the property is more than its FMV, you cannot claim the resulting capital loss. The amount of the contribution to your TFSA will be equal to the FMV of the property.

## Transfer from your RRSP

If you want to transfer an investment from your RRSP to your TFSA, you will be considered to have withdrawn the investment from the RRSP at its FMV, and that amount will be reported as an RRSP withdrawal, and included in your income in that year. Tax will be withheld on the withdrawal, which you can claim on your tax return. If the transfer into your TFSA takes place immediately, the same value will be used as the amount of the contribution to the TFSA. If the contribution to the TFSA is deferred, the amount of the contribution will be the FMV of the investment at the time of that contribution.

However, you cannot exchange securities for cash, or other securities of equal value, between your accounts, either between two registered accounts or between a registered and a non-registered account (swap).

# Withdrawals from a TFSA and their effect on contribution room

A qualifying transfer from one TFSA to another is not considered to be a withdrawal. For more information, see "Qualifying transfers" on page 10.

Depending on the type of investment held in your TFSA, you can generally withdraw any amount from the TFSA at any time and for any reason, with no tax consequences. However, you cannot contribute more than your TFSA contribution room in a given year, even if you make withdrawals from the account during the year. For information on withdrawing amounts from your TFSA, contact your TFSA issuer.

Any withdrawal made during the year can be re-contributed into your TFSA in the same year **only** if you have the available contribution room. See example 4 below.

Withdrawals, excluding qualifying transfers and specified distributions, made from your TFSA in the year will be added back to your TFSA contribution room at the beginning of the following year.

> **Note**
> If you over-contribute in the year, you will be subject to a tax equal to 1% of the highest excess TFSA amount in the month, for each month you are in an excess contribution position. For more information, see "Tax payable on excess TFSA amount" on page 14.

Generally you don't need to report any withdrawals you made during the year on your tax return.

**Example 4**
In 2009 and 2010, Sarah contributed $5,000 to her TFSA. In 2011, she makes another $5,000 contribution to her TFSA. Later that year, she withdraws $3,000 for a trip. Unfortunately, her plans changed and she cannot go. Since Sarah already contributed the maximum to her TFSA earlier in the year, she has no TFSA contribution room left.

If Sarah wishes to re-contribute part or all of the $3,000 she withdrew, she will have to wait until the beginning of 2012 to do so. The $3,000 will be added to her TFSA contribution room at the beginning of 2012.

If she re-contributes any of the withdrawn amount before 2012, she will have an excess amount in her TFSA and will be charged a monthly tax of 1% on the highest excess TFSA amount for each month that an excess exists in the account.

**Example 5**
In 2009, Carl is allowed to contribute $5,000. He contributes $2,000 for that year.

| | | |
|---|---|---|
| 2009 TFSA dollar limit………………………. | | $5,000 |
| 2009 contributions…………………………… | – | $2,000 |
| Unused TFSA contribution room available for future years……………………. | | $3,000 |

In 2010, Carl does not contribute to his TFSA, but he makes a $1,000 withdrawal from his account (this withdrawal will not be added to his TFSA contribution room until 2011).

| | | |
|---|---|---|
| 2009 unused TFSA contribution room.……. | | $3,000 |
| 2010 TFSA dollar limit………………………. | + | $5,000 |
| 2010 unused TFSA contribution room available for future years……………………. | | $8,000 |

Carl's TFSA contribution room for 2011

| | | |
|---|---|---|
| 2010 unused TFSA contribution room.….…. | | $8,000 |
| 2010 withdrawal……….…………………….. | + | $1,000 |
| 2011 TFSA dollar limit……………………….. | + | $5,000 |
| TFSA contribution room at the beginning of 2011……………..…………. | | **$14,000** |

# Non-residents of Canada

You may be considered a non-resident for tax purposes if you:

- normally, customarily, or routinely live in another country and are not considered a resident of Canada; **or**
- do not have residential ties in Canada; **and**
  - you live outside Canada throughout the tax year; **or**
  - you stay in Canada for less than 183 days in the tax year.

Even if you no longer live in Canada, you may have residential ties in Canada that are sufficient for you to be considered a factual or deemed resident of Canada. In these cases, the regular rules for opening a TFSA still apply.

Residential ties include:

- a home in Canada;
- a spouse or common-law partner or dependants in Canada;
- personal property in Canada, such as a car or furniture; or
- social ties in Canada.

Other ties that may be relevant include:

- a Canadian driver's licence;
- Canadian bank accounts or credit cards; and
- hospitalization and medical insurance coverage from a province or territory of Canada.

For more information on residential ties, see Interpretation Bulletin IT-221R, *Determination of an Individual's Residence Status*, or contact the International Tax Services Office at **1-800-267-5177**. If you are calling from outside Canada and the United States, call **613-952-3741**.

If you become a non-resident of Canada, or are considered to be a non-resident for income tax purposes:

- You will be allowed to keep your TFSA and you will not be taxed **in Canada** on any earnings in the account or on withdrawals from it.
- No TFSA contribution room will accrue for any year throughout which you are a non-resident of Canada.
- Any withdrawals made during the period that you were a non-resident will be added back to your TFSA contribution room in the following year, but will only be available if you re-establish your Canadian residency status for tax purposes.

You can contribute to a TFSA up to the date that you become a non-resident of Canada. The TFSA dollar limit (for example $5,000 in 2011) is not pro-rated in the year of emigration or immigration.

If you make a contribution, except for a qualifying transfer or an exempt contribution, while you are a non-resident, you will be subject to a 1% tax for each month the contribution stays in the account. You may also be subject to other taxes. For more information, see "Tax payable on non-resident contributions" on page 17.

## Impact on your government benefits and credits

Your federal income-tested benefits and credits such as: Old Age Security (OAS) benefits, Guaranteed Income Supplement (GIS), or Employment Insurance (EI) benefits will not be reduced as a result of the income you earn in your TFSA or the amount you withdraw from your TFSA.

The income earned in the account or amounts withdrawn from a TFSA will also not affect your eligibility for federal credits, such as the Canada Child Tax Benefit (CCTB), the working income tax benefit (WITB), the goods and services tax/harmonized sales tax credit (GST/HST), or the age amount.

You can withdraw money from the TFSA at any time, for any reason, with no tax consequences, and without affecting your eligibility for federal income-tested benefits and credits.

**Example 6**
Denis is retired. In addition to his pension, he receives Old Age Security (OAS) and Canada Pension Plan (CPP) benefits. He earns $500 a year in interest income from his TFSA savings. Neither this income nor any TFSA withdrawals will affect any federal income-tested benefits or credits he receives. If he had earned $500 in a regular savings account, it would have to be included on his tax return and Denis would have to pay more tax and might have to repay some of his social benefits.

| Denis's income | Funds in a TFSA | Funds outside a TFSA |
|---|---|---|
| Total pension income | $48,250 | $48,250 |
| Total CPP benefits | $12,017 | $12,017 |
| Total OAS benefits | $5,933 | $5,933 |
| Interest income to be reported on the tax return | $0 | $500 |
| Total income | $66,200 | $66,700 |
| Fictitious base amount for social benefits repayments | $66,250 | $66,250 |
| Amount over base amount | $0 | $450 |
| Multiplied by 15% | × 15% | × 15% |
| Amount to be included on the tax return as a social benefit repayment | **$0** | **$67.50** |

## Qualifying transfers

All qualifying transfers **must** be made by a financial institution.

### Between TFSAs of the same individual

If you want to transfer funds from one TFSA to another without tax consequences, a **direct transfer** must be completed by your issuer on your behalf.

If you withdraw the funds yourself and contribute the same funds to another TFSA, it would be treated as a regular contribution and will affect your contribution room for the year. If this results in an amount above your contribution limit, you may be subject to a 1% tax on the excess amount for each month you are over your contribution limit for that year.

**Example 7**
On January 5, 2011, Don contributed $5,000 to his TFSA in Bank "A" leaving him with a remaining TFSA contribution room of zero.

In July, he received his TFSA statement from Bank "A" which showed there was only a minimal growth ($25) from his investment. Don decided to consult with other financial institutions to see if they offered a better rate of return for his TFSA investment. Don found a better rate offered at another financial institution and decided to transfer the funds from his TFSA account to Bank "B".

In order for Don's contribution to the Bank "B" TFSA to be considered a qualifying transfer, and thereby ensure that there would be **no** tax consequences, Bank "A" **must** make a direct transfer of funds to Bank "B".

If, instead, Don goes into Bank "A" in July, withdraws the amount in his TFSA and walks into Bank "B" to open a new TFSA with a contribution of $5,025, the contribution will be treated as an ordinary contribution and because his unused TFSA contribution room is already zero, he will have an excess TFSA amount of $5,025 and will have to pay a 1% per month tax on the excess TFSA amount for as long as the excess TFSA amount exists. The withdrawal from Bank "A" will be added back to his contribution room at the beginning of 2012.

For example, if Don left his contribution to Bank "B" in his TFSA for the remainder of the year, his tax would be calculated as follows:

- Highest excess TFSA amount per month from July to December = $5,025.
- Tax = 1% per month on the highest excess amount = $5,025 x 1% x 6 months, which is $301.50.

If you want to transfer all or a portion of your TFSA from one issuer to another you should contact your issuer for additional information.

## Upon marriage or common-law partnership breakdown

When there is a breakdown in a marriage or common-law partnership, an amount can be transferred directly from one individual's TFSA to the other's TFSA without affecting either individual's contribution room. If you are in this situation you must meet the following conditions:

- you and your current or former spouse or common-law partner are living separate and apart at the time of the transfer; and
- you are entitled to receive, or required to pay, the amount under a decree, order, or judgment of a court, or under a written separation agreement to settle rights arising out of your relationship on or after the breakdown of your relationship.

The transfer must be made **directly** between the TFSAs by the financial institutions.

When these conditions are met, the transfer is a qualifying transfer and will not reduce the recipient's eligible TFSA contribution room. Since this transfer is not considered a withdrawal, the transferred amount will not be added back to the transferor's contribution room at the beginning of the following year.

Also, the transfer will not eliminate any excess TFSA amount, **if applicable**, in the payer's TFSA.

**Note**
If, instead of choosing to have the amount directly transferred, an individual chooses to receive the settlement amount before deciding to contribute part or all of it to their own TFSA, then any such contribution is characterized as a regular contribution that reduces the balance of their TFSA contribution room.

# Death of a TFSA holder

After the holder of a TFSA dies, possible tax implications may vary somewhat depending on one or more of the following factors:

- the type of TFSA;
- the type of beneficiary(ies);
- whether any income was earned after the date of death; and
- how long, after the date of death, amounts are distributed to beneficiaries.

Depending on the factors that apply, the following can be affected:

- whether the deceased's TFSA continues to exist or is considered to have ceased;
- how income earned after the date of death may be reported and taxed; and
- whether a beneficiary can contribute amounts received to their own TFSA, within certain limits, and whether such a contribution would affect their unused TFSA contribution room.

## Types of beneficiaries

There are different types of beneficiaries for TFSA purposes:

- a survivor who has been designated as a successor holder; and
- designated beneficiaries (for example, a survivor who has not been named as a successor holder), former spouses or common-law partners, children, and qualified donees.

Determining the type of beneficiary is an important initial step and can be affected by:

- designations which may have been made in the deceased holder's TFSA contract;
- the provisions of the deceased holder's will, if there is one; and
- provincial or territorial succession legislation.

**Note**
If you wish to change a prior beneficiary designation, contact your TFSA issuer.

### Successor holder

In provinces or territories that recognize TFSA beneficiary designation, the survivor can be designated as a successor holder in the TFSA contract or in the will.

A survivor can be named in the deceased holder's will as a successor holder to a TFSA, if the provisions of the will state that the successor holder acquires all of the holder's rights including the unconditional right to revoke any beneficiary designation, or similar direction imposed by the deceased holder under the arrangement or relating to property held in connection with the arrangement.

If named as the successor holder, the survivor will become the new holder of the TFSA immediately upon the death of the original holder.

**Example 8**
Joan and her husband George lived in a province that recognizes TFSA beneficiary designation. Joan was the holder of a TFSA and designated George as the successor holder. Joan died on February 15, 2011. The value of her TFSA on that date was $10,000. There was no excess TFSA amount in her account. Her estate was finally settled on September 1, 2011. By that time, an additional $200 of income had been earned. As George meets all the conditions, he becomes the successor holder of Joan's TFSA as of the date of her death.

The fair market value (FMV) of $10,000 as of the date of death is not taxable to George. Similarly, the $200 of income earned after the date of death (and any subsequent income earned) is also not taxable to George. No T4A slip would be issued and Form RC240, *Designation of an Exempt Contribution Tax-Free Savings Account (TFSA)*, is not necessary in this situation.

This is because Joan was a resident, at the time of her death, in a province that recognizes TFSA beneficiary designations.

This is the case for all three types of TFSA: deposit, annuity contract, and trust arrangement.

The deceased holder is not considered to have received an amount from the TFSA at the time of death if the holder named his or her survivor as the successor holder of the TFSA. In this situation, the TFSA continues to exist and the successor holder assumes ownership of the TFSA contract and all of its contents. However, where the TFSA contract is a trust arrangement, the trust continues to be the legal owner of the property held in the TFSA.

The TFSA continues to exist and both its value at the date of the original holder's death and any income earned after that date continue to be sheltered from tax under the new successor holder.

Except in cases where an excess TFSA amount existed in the deceased holder's TFSA at the time of their death, the successor holder's unused TFSA contribution room is unaffected by their having assumed ownership of the deceased holder's account.

The issuer will notify the CRA of this change in ownership.

The successor holder, after taking over ownership of the deceased holder's TFSA, can make tax-free withdrawals from that account. The successor holder can also make new contributions to that account, subject to their own unused TFSA contribution room.

If the successor holder already had their own TFSA, then they would be considered as the holder of two separate accounts. If they wish, they can **directly transfer** part or all of the value from one to the other (for example, to consolidate accounts). This would be considered as a qualifying transfer and would not affect available TFSA contribution room.

In certain cases, a survivor, designated as the successor holder of a TFSA, may not have a valid Canadian social insurance number (SIN), which is one of the eligibility requirements for opening a TFSA. If the survivor is a Canadian resident, they should apply to Service Canada to obtain a valid Canadian SIN.

If the survivor is a non-resident, they should request an individual tax number from the CRA by completing Form T1261, *Application for a Canada Revenue Agency Individual Tax Number (ITN) for Non-Residents*.

### Excess TFSA amount at the time of death

If, at the time of death, there is an excess TFSA amount in the deceased holder's TFSA, a tax of 1% per month applies to the deceased holder on the highest excess TFSA amount for each month in which the excess existed, up to and including the month of death. The executor of the estate (liquidator) must file a Form RC243, *Tax-Free Savings Account (TFSA) Return*, and Form RC243-SCH-A, *Schedule A – Excess TFSA Amounts*, for that period.

Also, the successor holder is **deemed** to have made, at the beginning of the month following the date of death, a contribution to their TFSA equal to the amount by which the excess TFSA amount is more than the total FMV, at the date of the holder's death, of all property under any arrangements that ceased to be a TFSA because of the holder's death. If that contribution creates an excess TFSA amount in the successor holder's TFSA, they will be subject to a tax of 1% per month on the highest amount for each month they are in an excess contribution position.

**Example 9**
Bob and Betty were a married couple. Each had TFSA contribution room of $5,000 at the beginning of 2009. They each opened their own TFSA on January 10, 2009. Bob initially contributed $4,000 to his TFSA, and Betty contributed $1,000 to hers. On June 12, 2009, Bob contributed an additional $3,000 to his TFSA, bringing his total contributions for 2009 to $7,000.

As Bob only had contribution room of $5,000 for 2009, he had an excess TFSA amount of $2,000. Bob passed away on September 18, 2009, and the value of his TFSA on that date was $7,000. Bob had named Betty as the successor holder of his TFSA in the event of his death. As Betty meets all the conditions to be considered a successor holder, she becomes the holder of the TFSA as of September 18, 2009.

Since an excess TFSA amount existed in Bob's TFSA at the time of his death, Betty is deemed to have made, as of October 1, 2009, a $2,000 contribution to her TFSA (which is the excess amount in Bob's TFSA). As Betty had only previously contributed $1,000 to her own TFSA, she still had unused TFSA contribution room for 2009 of $4,000. As a result, the $2,000 deemed contribution does not create an excess TFSA amount in her account. Therefore, there are no tax consequences to Betty based on this deemed contribution. Her unused contribution room for the rest of 2009 is $2,000. However, the executor of Bob's estate must file a Form RC243, *Tax-Free Savings Account (TFSA) Return*, and Form RC243-SCH-A, *Schedule A – Excess TFSA Amounts*, for the 2009 taxation year reporting the excess in Bob's TFSA for the period from June up to and including September 2009.

**Example 10**
From the scenario above, if Betty had initially contributed $4,500 to her own TFSA on January 10, 2009, instead of the $1,000 previously noted, the $2,000 deemed contribution on October 1, 2009, would have resulted in total contributions to her TFSA in 2009 of $6,500.

As Betty's TFSA contribution room for 2009 was $5,000, as a result of the deemed contribution, she would be considered to have an excess TFSA amount of $1,500 ($6,500 – $5,000). In such a situation, Betty would be subject to a tax of 1% per month on this excess TFSA amount for as long as this excess TFSA amount stayed in her account.

## Designated beneficiaries

Designated beneficiaries may include a survivor who has not been named as a successor holder, former spouses or common-law partners, children, and qualified donees.

A designated beneficiary will not have to pay tax on payments made out of the TFSA, as long as the total payments don't exceed the FMV of all the property held in the TFSA at the time of the holder's death.

Beneficiaries (other than a survivor) can contribute any of the amounts they receive to their own TFSA as long as they have unused TFSA contribution room available.

A survivor who is a beneficiary has the option to contribute and designate all or a portion of a survivor payment as an exempt contribution to their own TFSA, without affecting their own unused TFSA contribution room, as long as they meet certain conditions and limits. For more information, see "Designation of an exempt contribution by a survivor" on the next page.

If, at the time of death, there was an excess TFSA amount in the deceased holder's TFSA, a tax of 1% per month is applicable on the highest excess amount for each month in which the excess existed, up to and including the month of death. The executor of the estate (liquidator) must file Form RC243, *Tax-Free Savings Account (TFSA) Return*, and Form RC243-SCH-A, *Schedule A – Excess TFSA Amounts*.

When no successor holder or beneficiary is designated in the TFSA contract or will, the TFSA property is directed to the deceased holder's estate and distributed in accordance with the terms of the will.

### General rules – deposit or annuity contract

If there is no successor holder, the TFSA ceases to exist when the holder of a deposit or an annuity contract under a TFSA dies. The holder is considered to have disposed of the contract or the deposit immediately before the time that the TFSA ceased to exist for an amount equal to the FMV of all the property held in the TFSA at the time of death.

After the holder's death, the deposit or annuity contract is considered to be a separate contract and is no longer considered as a TFSA. All earnings that accrue after the holder's death will be taxable to the beneficiary.

The normal rules apply for reporting income or gains accrued after the date of death, depending on the specific characteristics of the deposit or annuity contract. For example, interest earned would be reported on a T5 slip, *Statement of investment income*.

### General rules – arrangement in trust

If there is no successor holder, a TFSA that is an arrangement in trust is deemed to continue and it remains a non-taxable trust until the end of the exempt period.

All income earned during the exempt period and paid to the beneficiaries, will be included in their income, while earnings that accrued before death remain exempt. In other words, any amount up to the FMV of the deceased holder's TFSA as of the date of death can be paid to beneficiaries, without them having to report any amount as income. Any amount paid to beneficiaries that represents an increase in the FMV after the date of death is taxable to the beneficiaries and has to be reported by them as income. Such payments will appear in box 134 "Tax-Free Savings Account taxable amount" in the "Other information" section of a T4A slip, *Statement of Pension, Retirement, Annuity, and Other Income*.

The trust has the exempt period within which to distribute both the taxable and non-taxable amounts. The trustee will designate the part of each payment that represents non-taxable FMV at the date of death with the rest being taxable.

Payments of amounts earned above the FMV made by the trust to a non-resident beneficiary, including a non-resident survivor, from a deceased holder's TFSA during the exempt period are reported on an NR4 slip, *Statement of Amounts Paid or Credited to Non-residents of Canada*, and are subject to non-resident withholding tax.

If the trust continues to exist beyond the end of the exempt period (for example, not all amounts from the deceased's TFSA have been paid to beneficiaries), it will be taxable from that point forward. It becomes a taxable inter vivos trust with a tax year beginning January 1 of the following calendar year. The trust will be treated as having disposed of and immediately reacquired its property for its FMV at that time. For as long as it continues to exist, the trust would itself be taxable on any undistributed income (including, for its first tax year, any undistributed income or gains during the exempt period) and required to annually file a T3RET, *T3 Trust Income Tax and Information Return*. The trust will also be required to prepare T3 slips, *Statement of Trust Income Allocations and Designations*, in that year or subsequent years for any distributions of taxable amounts to beneficiaries.

**Example 11**

Martin's mother passed away on January 9, 2011. The value of her TFSA on that date was $11,000. There was no excess TFSA amount in her account. In her TFSA contract, she had named Martin as the sole beneficiary. Her estate was settled on June 7, 2011. By that time, $200 in additional income had been earned, and the full amount of $11,200 was paid to Martin.

The value of Martin's late mother's TFSA as of the date of her death—$11,000, is not taxable. The income earned after the date of her death, $200, is taxable to Martin. He will receive a T4A slip showing this amount in box 134 "Tax-Free Savings Account taxable amount" in the "Other information" section. Martin can contribute any of the amounts he receives to his own TFSA as long as he has unused TFSA contribution room available.

### Designation of an exempt contribution by a survivor

If designated as a beneficiary, the survivor (defined on page 6) has the option to contribute and designate all or a portion of a survivor payment as an exempt contribution to their own TFSA, without affecting their own unused TFSA contribution room, subject to certain conditions and limits.

Beneficiaries (other than the survivor) in receipt of a payment from the deceased holder's TFSA are not able to contribute and designate any amount as an exempt contribution.

For the survivor to designate an exempt contribution, the amount must be received and contributed to their TFSA during the rollover period. Also, the survivor must designate their survivor payments as an exempt contribution on Form RC240, *Designation of an Exempt Contribution Tax-Free Savings Account (TFSA)*, and submit the designation within 30 days after the day the contribution is made.

The total exempt contributions designated during the rollover period cannot exceed the FMV of the deceased holder's TFSA at the time of death.

Generally, if the TFSA of the deceased holder includes an excess TFSA amount at the time of death, if payments are being received by more than one survivor, or if the survivor payment and/or the contribution is made after the rollover period, no amount of the survivor payment may be designated as an exempt contribution. If any of these circumstances are present, contact us to find out whether a designation can still be made.

**Example 12**
Emma died on February 2, 2011. She was living with her common-law partner, Fred, in Ontario. The value of her trusteed TFSA on that date was $9,000. There was no excess TFSA amount in her account. In her TFSA contract, she had not filled out the part about a successor holder, but she named Fred as the beneficiary. Her estate was settled on August 15, 2011. By that time, an additional $150 of income had been earned, and the full amount of $9,150 was paid to Fred.

The value of Emma's TFSA as of the date of her death, $9,000, is not taxable. The additional income earned after the date of death, $150, is taxable to Fred. His T4A slip will show an amount in box 134 "Tax-Free Savings Account taxable amount" in the "Other information" section.

The amount paid to Fred, as the surviving common-law partner, is considered a survivor payment. Since the survivor payment was made during the rollover period, it is possible for Fred to rollover up to $9,000 (the value of the TFSA as of the date of death) to his own TFSA, as an exempt contribution.

An exempt contribution does not affect Fred's unused TFSA contribution room. For the contribution of a survivor payment to be considered an exempt contribution during the rollover period, Fred must designate it as such on Form RC240, *Designation of an Exempt Contribution Tax-Free Savings Account (TFSA)*, within 30 days after the contribution is made.

### Donation to a qualified donee

If a qualified donee was named as a beneficiary of the deceased holder's TFSA, the transfer of funds to the qualified donee must generally occur within the 36-month period following the holder's death. If necessary, once the donation has been completed, it is possible to ask to have the deceased's tax return for the year of death adjusted in order to claim the charitable donation tax credit.

# Tax payable

Generally, interest, dividends, or capital gains earned on investments in a TFSA are not subject to tax—either while held in the account or when withdrawn.

There are, however, certain circumstances under which one or more taxes may be payable with respect to a TFSA. The following sections provide information and examples of when and how these taxes are payable, and by whom.

Normally, in most TFSA situations, there is no tax payable, and therefore, a TFSA return is not required; however, where one or more of TFSA taxes are applicable a TFSA return is required to be completed and filed by **June 30**, of the year following the calendar year in which the tax arose.

## Tax payable on excess TFSA amount

You have an excess TFSA amount at any time in a year as soon as the total of all TFSA contributions you made in the year (other than a qualifying transfer or an exempt contribution) exceeds the total of your TFSA contribution room at the beginning of the year plus any qualifying portion of a withdrawal made in the year up to that time.

The qualifying portion of the withdrawal is the amount of the withdrawal or the previously determined excess TFSA amount, whichever is less.

Any portion of a withdrawal that does not reduce or eliminate a previously determined excess TFSA amount is not a qualifying portion of the withdrawal and cannot be used to reduce or eliminate any future excess TFSA amount that may be created.

**Example 13**
In 2011, Judy begins the year with a TFSA contribution room of $5,000.

Judy's contributions and withdrawals for 2011 are the following amounts:

- contribution on January 25 $4,000
- contribution on March 16 $1,000
- withdrawal on June 15 $2,000
- contribution on August 23 $2,000
- withdrawal on September 8 $1,000

Judy's first two contributions, in January and March, reduced her TFSA contribution room to zero. Since her June withdrawal does not get added back to her contribution room until the following year, her August contribution caused an excess TFSA amount of $2,000 for that month. Her September withdrawal of $1,000 would be considered a **qualifying portion of the withdrawal** in computing her highest excess amount for the following month, October. An excess TFSA amount of $1,000 remains until the end of the year and she will have to pay a 1% tax for the months of August to December.

Judy's tax would be calculated as follows:

- Highest excess TFSA amount per month for August and September = $2,000. Tax = 1% per month on the highest excess amount = $2,000 x 1% x 2 months, which is $40.
- Highest excess TFSA amount per month for October to December = $1,000. Tax = 1% per month on the highest excess amount = $1,000 x 1% x 3 months, which is $30.

Judy's withdrawals from her TFSA will be added to her TFSA room for 2012.

**Example 14**
Gilles, a 36-year-old Canadian resident, opened his TFSA on February 6, 2009, and contributed $5,000 on that date. On March 3, 2010, he contributed an additional $7,000. Since Gilles' TFSA contribution room at the beginning of 2010 was only $5,000 (the TFSA dollar limit for that year), his contribution of $7,000 on March 3 resulted, as of that date, in an excess TFSA amount of $2,000.

On May 17, 2010, Gilles withdrew $3,200 from his TFSA. The qualifying portion of this withdrawal was $2,000, since this was the maximum amount that eliminated the excess amount in his account.

No part of the $1,200 portion of his withdrawal (the full amount of $3,200 less the qualifying portion of $2,000) could have been used in the year to reduce any subsequent excess TFSA amount. In other words, if Gilles had made a new contribution of $1,000 on July 6, 2010, it would still have resulted in an excess TFSA amount of $1,000, as of that date, even though Gilles previously withdrew $1,200 more than his excess TFSA amount on May 17, 2010.

**Example 15**
Using the previous example, if Gilles had withdrawn $900 on May 17, 2010 (instead of withdrawing $3,200), the qualifying portion of the withdrawal was the full $900, since the entire amount reduced (but did not fully eliminate) his previously determined excess TFSA amount of $2,000.

In this case, an excess TFSA amount of $1,100 remained in his account as of the May 17 withdrawal (the previously determined excess TFSA amount of $2,000 minus the $900 qualifying portion of the withdrawal). If, in this scenario, Gilles had made a new contribution of $1,000 on July 6, 2010, it would result in an excess TFSA amount, as of that date, of $2,100 ($1,100 + $1,000).

If, at any time in a month, you have an excess TFSA amount, you are liable to a tax of 1% on your highest excess TFSA amount in that month.

**Example 16**
Jamal is a 43-year-old Canadian resident. He opened his TFSA in 2009 and made the following transactions during that year:

- contribution on January 6 $4,000
- contribution on March 10 $500
- contribution on June 3 $2,700
- withdrawal on October 2 $800

Jamal's contribution room for 2009 was $5,000. The first contribution that created the excess TFSA amount was the $2,700 contribution on June 3. As of that date, his total contributions in 2009 were $7,200 ($4,000 + $500 + $2,700). This means that as of June 3, he had an excess amount in his TFSA of $2,200 ($7,200 of total contributions minus $5,000 of contribution room).

Jamal has to pay a tax on his excess contributions. This tax was 1% of the highest excess TFSA amount in each month and applies until Jamal either withdraws the entire excess amount or until he becomes entitled to enough unused TFSA contribution room to absorb the excess.

In this example, Jamal's tax was $138 for 2009, calculated as follows:

- Highest excess TFSA amount per month for January to May = 0. No tax applicable for those months.
- Highest excess TFSA amount per month for June to October = $2,200. Tax = 1% per month on the highest excess amount = $2,200 × 1% × 5 months, which was $110.

Although Jamal withdrew $800 in October, the tax was calculated based on the highest excess TFSA amount in each month. The highest excess TFSA amount in October was still $2,200.

For the months of November and December, Jamal still had an excess TFSA amount, but because of the withdrawal he made, his remaining excess TFSA amount for those last two months was $1,400 (the prior excess amount of $2,200 less the withdrawal of $800).

This means that for November and December, Jamal's tax was \$1,400 × 1% × 2 months, which was \$28. Therefore, in total for 2010, his tax was \$138 (\$110 for June to October + \$28 for November to December).

**Note**
If an excess TFSA amount exists in the account as of the date of death of a TFSA holder and there is a successor holder, see "Excess TFSA amount at the time of death" on page 12.

The tax of 1% per month will continue to apply for each month that the excess amount remains in the TFSA. It will continue to apply until whichever of the following happens first:

- the entire excess amount is withdrawn; or
- for eligible individuals, the entire excess amount is absorbed by additions to their unused TFSA contribution room in the following years.

**Example 17**
Luisa is a 60-year-old Canadian resident. On June 18, 2009, she received a \$12,000 bonus from work. She decided to open a TFSA, and she contributed the entire amount on June 25, 2009.

Since the TFSA dollar limit for each year 2009 to 2011 is \$5,000 and assuming Luisa makes no further contributions or withdrawals, she has to pay a tax on an excess TFSA amount in both 2009 and 2010. The amount of tax payable for each of those years was calculated as follows:

**2009**
After making her \$12,000 contribution on June 25, Luisa had an excess TFSA amount of \$7,000 (\$12,000 less her TFSA dollar limit of \$5,000). The highest excess TFSA amount that existed in her account was \$7,000 for every month from June to December. This means she was subject to a tax payable of \$490 (\$7,000 × 1% × 7 months).

**2010**
Luisa's unused TFSA contribution room at the end of 2009 was negative (–) \$7,000. On January 1, 2010, she became entitled to her 2010 TFSA dollar limit of \$5,000. Although this helped to reduce the excess TFSA amount from \$7,000 to \$2,000, it did not completely absorb it. Luisa continued to have an excess TFSA amount of \$2,000 in her account through all of 2010. She had to pay a tax of \$240 (\$2,000 × 1% × 12 months).

**2011**
Luisa's unused TFSA contribution room at the end of 2010 was negative (–) \$2,000. As of January 1, 2011, she was entitled to a new TFSA dollar limit of \$5,000. This fully eliminated or absorbed the excess TFSA amount in her account. Luisa had available contribution room for \$3,000 and, as long as she does not contribute more than this amount to her TFSA through the remainder of 2011, she would not have to pay any tax on an excess TFSA amount for 2011.

For distributions (withdrawals) occurring after October 16, 2009, a distribution from a TFSA that is a specified distribution cannot reduce or eliminate an individual's excess TFSA amount.

This tax is similar to the tax of 1% per month on excess RRSP contributions except that in the case of a TFSA, there is no \$2,000 "grace" amount. The tax of 1% on an excess TFSA amount applies from the first \$1 of excess contributions.

This tax of 1% per month is based on the highest excess TFSA amount in your account for each month in which an excess exists. This means that the 1% tax applies for a particular month even if an excess amount was contributed and withdrawn later during the same month.

**Example 18**
Theresa is a 31-year-old Canadian resident. She opened a TFSA on February 6, 2009, and contributed \$3,000 at that time. Later in the year, she received a windfall of \$4,100. She forgot that her contribution limit for 2009 was \$5,000, and she decided to contribute the entire \$4,100 to her TFSA on October 28.

After making this contribution, Theresa had an excess TFSA amount of \$2,100 in her account. This is because her total contributions as of October 28 were \$7,100 (\$3,000 + \$4,100), which exceeded her available contribution room of \$5,000.

Assuming Theresa made no further TFSA contributions and no withdrawals during the remainder of 2009, she would have to pay a tax of \$63 on her excess TFSA amount. This amount was calculated as 1% per month for each of October to December × the highest excess amount in each month. In other words, \$2,100 × 1% × 3 months = \$63.

If, after making her \$4,100 contribution on October 30, 2009 Theresa had realized her mistake and had withdrawn \$2,100 on October 31, she would still have to pay the 1% tax on the excess TFSA amount of \$2,100 but only for the month of October. Her tax payable would have been \$21 (\$2,100 × 1% × 1 month).

For any year in which tax is payable by the holder of a TFSA on an excess TFSA amount in their account, it is necessary to complete and file Form RC243, *Tax-Free Savings Account (TFSA) Return*, and Form RC243-SCH-A, *Schedule A – Excess TFSA Amounts*.

For information on the filing deadline for this return, see "TFSA Return and payment of taxes" on page 19.

Effective October 17, 2009, any earnings or increase in value reasonably attributable to "deliberate excess contributions" will be considered an **advantage** and treated accordingly. For more information, see "Tax payable on an advantage" on page 19.

## Tax payable on non-resident contributions

If, at any time during the year, your TFSA contains contributions (other than a qualifying transfer or an exempt contribution) you made while a non-resident of Canada, you will be liable to a tax of 1% per month on these contributions.

**Example 19**
Gemma opened a TFSA on March 2, 2009, when she was 41 years old and a Canadian resident. She contributed $4,000 on that date. On September 7, 2009, she became a non-resident. On July 12, 2010, she contributed an additional $2,500 to her TFSA. By the end of 2010, Gemma was still a non-resident of Canada, and she had not made any withdrawals from her account.

For 2010, Gemma had to pay a tax on the contribution she made while she was a non-resident and she was also subject to tax on the excess TFSA amount in her account.

Gemma's unused TFSA contribution room at the end of 2009 was $1,000 (the TFSA dollar limit of $5,000 less her contribution of $4,000). Gemma was not entitled to the TFSA dollar limit of $5,000 for 2010 since she was a non-resident throughout that entire year. Gemma's $2,500 contribution on July 12, 2010, results in an excess TFSA amount in her account at that time of $1,500. This is the amount by which her contribution exceeded her available room.

Gemma's tax on non-resident contributions for 2010 was $150 since the full amount of her $2,500 contribution was made while she was a non-resident and this amount remained in her account through to the end of the year. Since the tax is equal to 1% per month of the amount of non-resident contributions, the tax on her non-resident contributions was $150 ($2,500 × 1% × the 6 months from July to December 2010).

Since part of Gemma's contribution while a non-resident also created an excess TFSA amount ($1,500, as described above) in her account, she also had to pay the 1% tax per month on this amount from July to December 2010. Her tax on her excess TFSA amounts was $90 ($1,500 × 1% × 6 months).

For 2010, Gemma had to pay a total tax of $240 on her TFSA, made up of $150 in tax on her non-resident contribution plus $90 in tax on her excess TFSA amount.

Gemma will not accumulate any room in 2011 unless she re-establishes Canadian residency in that year. She will have to withdraw the entire $2,500 she contributed while she was a non-resident to avoid an additional tax of 1% per month on the non-resident contributions as well as on the $1,500 excess TFSA amount.

This tax, calculated on the full amount of the contribution, will apply for each month that any portion of the amount contributed while a non-resident remains in the TFSA and will continue to apply until whichever of the following happens first:

- the contributions are withdrawn in full from the account and designated as a withdrawal of non-resident contributions; or
- the individual becomes a resident of Canada.

An individual is not subject to the tax of 1% on non-resident contributions for the month in which the full amount of the contribution is withdrawn or, if applicable, the month in which Canadian residency is resumed.

**Example 20**
Hassan is 25 years old and opened a TFSA in 2009 when he was a resident of Canada. His total contributions in 2009 were $1,000, and he made no withdrawals. Hassan became a non-resident of Canada on February 17, 2010. He contributed $3,000 to his TFSA on August 9, 2010. He re-established his Canadian residency for tax purposes on December 8, 2010.

Hassan's unused TFSA contribution room at the end of 2009 was $4,000 (the $5,000 limit for that year less the $1,000 he contributed). Hassan also accumulated an additional $5,000 TFSA dollar limit for 2010. This is because this amount is not pro-rated in the year an individual becomes a non-resident, and he was considered a Canadian resident for part of 2010. This means that as of January 1, 2010, Hassan has a total TFSA contribution room of $9,000 (the $4,000 carried over from the end of 2009 plus the annual limit of $5,000 for 2010).

Even though he has unused TFSA contribution room, a tax is applicable if any contributions are made while he was a non-resident. Since he contributed $3,000 was while he was a non-resident, he would have to pay a tax of 1% of this amount for each month from August to November 2010. He is not subject to tax for December as he re-established Canadian residency in that month. Accordingly, Hassan had to pay $120 in tax based on his non-resident contribution ($3,000 × 1% × 4 months).

**Note**
Unlike in the case of excess TFSA contributions where a partial withdrawal can reduce the tax payable, a partial withdrawal of a contribution made while a non-resident does not proportionately reduce the tax otherwise payable. It is necessary for the full amount of a non-resident contribution to be withdrawn in order for the full tax to no longer apply.

For any year in which tax is payable by the holder of a TFSA on contributions made while a non-resident, it is necessary to complete and file an RC243, *Tax-Free Savings Account (TFSA) Return*, and Form RC243-SCH-B, *Schedule B – Non-Resident Contributions to a Tax-Free Savings Account (TFSA)*.

**Note**
In addition to the tax of 1% per month on the contributions made while a non-resident, you may also be subject to a separate tax of 1% per month if any of the same contributions create an excess amount in your TFSA. To determine whether you have excess TFSA amounts, you will need to complete Form RC243-SCH-A, *Schedule A – Excess TFSA Amounts*.

For information on the filing deadline for this return, see "TFSA Return and payment of taxes" on the next page.

## Tax payable on non-qualified investments

If, in a calendar year, a trust governed by a TFSA acquires property that was a non-qualified investment or if previously acquired property becomes non-qualified, there are consequences in terms of reporting requirements and tax payable on the part of the TFSA trust as well as the holder of the TFSA.

For the purposes of TFSA taxes, if a trust governed by a TFSA holds property, at any time that is, for the trust, both a prohibited investment and a non-qualified investment, the property is not considered to be at that time a non-qualified investment, but remains a prohibited investment.

### Reporting requirements and tax payable by the TFSA holder

A **one-time tax** is payable by the holder of a TFSA when a non-qualified investment is acquired or when a previously acquired qualified investment becomes non-qualified.

The tax is equal to 50% of the fair market value (FMV) of the property at the time it was acquired or it became non-qualified.

An individual subject to this tax is required to complete and file an RC243, *Tax-Free Savings Account (TFSA) Return*.

For information on the filing deadline for this return, see "TFSA Return and payment of taxes" on the next page.

### Refund of taxes paid

The TFSA holder may be entitled to a refund of the one-time 50% tax paid on non-qualified investments or prohibited investments held in the account before the end of the calendar year following the calendar year in which the liability for the tax arose, or a later time as permitted by the Minister, if either:

- the TFSA trust disposes of the non-qualified or prohibited investment; or
- the property ceases to be a non-qualified or prohibited investment.

Under unusual circumstances, the Minister may still consider refunding the tax if the disposition takes place at a later time. However, no refund will be issued if it is reasonable to expect that the holder knew, or should have known, at the time the property was obtained by the TFSA trust, that the property was, or would become, a non-qualified investment or a prohibited investment.

To claim a refund, send a letter explaining why you are requesting a refund along with the documents detailing the information relating to the acquisition of the non-qualified or prohibited property, or of its becoming non-qualified or prohibited, and of its disposition. The documents must contain the name and description of the property, the number of shares or units, the date the property was acquired or became non-qualified or prohibited property and the date of the disposition or the date that the property became qualified or ceased to be prohibited.

If the disposition took place in the same year as the acquisition, enter the refundable amount on the line in Section 2 of the TFSA return, and attach the documents to your return. If the property disposed of was acquired in a previous year, send a letter and the documents to:

**TFSA Processing Unit**
**Post Office Box 9768 Station T**
**Ottawa ON  K1G 3X9**

### Reporting requirements by the trust governed by a TFSA

The TFSA issuer must, by no later than the end of February in the year following the year in which the non-qualified property was acquired or previously acquired property became non-qualified, provide relevant information to the CRA and the holder of the TFSA. This information includes, where applicable, description of the properties, dates of acquisition or disposition, and the FMV at the relevant times. This information is necessary to enable the TFSA holder to determine the amount of any tax payable or of any possible refund of tax previously paid.

If the non-qualified investment becomes a qualified investment while it is held by a trust governed by a TFSA, the trust is considered to have disposed of and immediately re-acquired the property at its FMV.

## Tax payable on prohibited investments

If, in a calendar year, a trust governed by a TFSA acquires property that is a prohibited investment or if previously acquired property becomes prohibited, there are consequences for the TFSA holder in terms of reporting requirements and tax payable.

For the purposes of TFSA taxes, if a trust governed by a TFSA holds property at any time that is, for the trust, both a prohibited investment and a non-qualified investment, the property is not considered to be, at that time, a non-qualified investment, but remains a prohibited investment.

### Reporting requirements and tax payable by the TFSA holder

Where a trust that is governed by a TFSA holds a prohibited investment during the calendar year, the holder of the TFSA is liable to pay two amounts of tax.

A **one-time tax** is payable by the holder of a TFSA when a prohibited investment is acquired or when a previously-acquired property becomes a prohibited investment.

If the prohibited investment ceases to be a prohibited investment while it is held by the trust, the trust is considered to have disposed of and immediately re-acquired the property at its FMV.

The tax is equal to 50% of the FMV of the property at the time it was acquired or it became prohibited.

An **additional tax** is payable by the holder of a TFSA that holds a prohibited investment. This additional tax is equal to 150% of the amount of tax that would be payable by the TFSA trust for the tax year that ends in the calendar year, if the trust had no income or losses other than from the prohibited investments that it held in the year and no capital gains or capital losses other than from the disposition of its prohibited investments.

An individual subject to these taxes must complete and file an RC243, *Tax-Free Savings Account (TFSA) Return*.

For transactions after October 16, 2009, the additional tax on income or gain on prohibited investments as noted in the preceding paragraph no longer applies. Instead, the earnings or increase in value reasonably attributable to a prohibited investment meets the definition of advantage and is subject to tax under the advantage rules. For more information, see "Tax payable on an advantage" on this page.

For information on the filing deadline for this return, see "TFSA Return and payment of taxes" on this page.

### Refund of taxes paid

The TFSA holder may be entitled to a refund of the one-time 50% tax paid on non-qualified investments or prohibited investments held in the account before the end of the calendar year following the calendar year in which the liability for the tax arose, or a later time as permitted by the Minister, if either:

- the TFSA trust disposes of the non-qualified or prohibited investment; or
- the property ceases to be a non-qualified or prohibited investment.

Under unusual circumstances, the Minister may still consider refunding the tax if the disposition takes place at a later time. However, no refund will be issued if it is reasonable to expect that the holder knew, or should have known, at the time the property was obtained by the TFSA trust, that the property was, or would become, a non-qualified investment or a prohibited investment.

To claim a refund, send a letter explaining why you are requesting a refund along with the documents detailing the acquisition of the non-qualified or prohibited property, or of its becoming non-qualified or prohibited, and of its disposition. The documents must contain the name and description of the property, the number of shares or units, the date the property was acquired or became non-qualified or prohibited property and the date of the disposition or the date that the property became qualified or ceased to be prohibited. Send your letter to:

**TFSA Processing Unit**
**Post Office Box 9768 Station T**
**Ottawa ON  K1G 3X9**

## Tax payable on an advantage

If the holder of a TFSA or a person not dealing at arm's length with the holder was provided with an advantage in relation to their TFSA during the year, a tax is payable which is:

- in the case of a benefit, the FMV of the benefit; and
- in the case of a loan or a debt, the amount of the loan or debt.

For a more complete definition of an advantage, see the "Definitions" section starting on page 4.

The tax payable on an advantage extended in relation to a TFSA may apply to the holder of the TFSA or the TFSA issuer, depending on the specifics of each situation.

If the advantage is considered to be extended by the TFSA issuer, or by a person not dealing at arm's length with the issuer, the issuer is liable to pay the tax, rather than the holder.

An individual subject to this tax must complete and file an RC243, *Tax-Free Savings Account (TFSA) Return*.

For information on the filing deadline for this return, see "TFSA Return and payment of taxes" below.

> **Note**
> If, in the same calendar year, an individual has to pay tax on an advantage related to the same contributions that also results in them being liable to pay tax on excess TFSA contributions or tax on non-resident contributions, the tax payable on the advantage for the year will be reduced by the amount of these two taxes.

## TFSA Return and payment of taxes

Most TFSA holders have no tax payable related to their TFSA investments, and no TFSA tax return has to be filed. However, when TFSA taxes are applicable for a year, an RC243, *Tax-Free Savings Account (TFSA) Return*, must be filed by **June 30** of the following year. Any tax owing must also be paid by that date.

The RC243-SCH-A, *Schedule A – Excess TFSA Amounts* and RC243-SCH-B, *Schedule B – Non-Resident Contributions to a Tax-Free Savings Account (TFSA)* will assist you in determining your tax liability.

If a TFSA Return is required but has not been filed, the CRA may use information provided by your issuers in order to calculate any tax payable by you.

### Proposed TFSA return explained

Annually, the CRA sends out a letter and a proposed TFSA return to Canadians who may have over contributed to their TFSA. You may also receive a proposed TFSA return if you made contributions to your TFSA while you were not a resident of Canada. If you receive a letter, it does not automatically mean that you will be subject to a tax. It may just mean that more information is required.

#### The proposed TFSA Return package includes the following:

- Cover letter – It provides general information about TFSA rules and instructions regarding what you need to do to respond to the proposed return.
- RC243-P, *Proposed Tax-Free Savings Account (TFSA) Return* – This proposed TFSA return shows the taxes we have calculated and is based on the information we received from your issuers. The proposed TFSA return is not a formal assessment of tax.
- RC324, *Tax-Free Savings Account (TFSA) Detailed Excess Amount Calculation* – This sheet is sent only if you had an excess amount in your TFSA at any time in the year.
- Transaction Summary – This shows your TFSA contributions to and withdrawals from your TFSAs for the year as submitted by your issuers, and is sent only if you have contributions or withdrawals in the year.
- Return envelope included – This is provided to mail your return and payment or additional documentation, as applicable, to the TFSA Processing Unit.

#### Responding to the proposed return package

This proposed return does not represent a formal assessment of tax. Although you cannot file a Notice of Objection on a proposed TFSA return, the following three options are available to you:

1. If you agree with the information in the attached proposed return, sign, date, and include your Social Insurance Number (SIN) on the return. Send it to us along with your payment in the enclosed addressed envelope. We will issue an assessment based on this return.
2. If the information on the TFSA Transaction Summary appears to be incorrect or incomplete, contact your financial institution(s) and ask them to send amended TFSA records to the CRA. In addition, let us know about this by calling our Individual income tax enquiries line at **1-800-959-8281**.
3. If you do not agree with the assessment on the proposed TFSA return or you would like us to review your situation, you can send us a letter to the address listed below. Please be sure to include an explanation with as much information as possible and any additional documentation about the excess contributions.

   **TFSA Processing Unit**
   **Post Office Box 9768 Station T**
   **Ottawa ON  K1G 3X9**

   We will review your request and send you a letter explaining our decision.

If we do not receive a response from you, we will issue an assessment based on the information on file. This assessment will include any penalties and interest that may apply.

## What should you do if you disagree with your assessment?

If you disagree with the assessment or reassessment of your return, contact us for more information. If you still disagree, you can make a formal objection by sending a completed Form T400A, *Objection – Income Tax Act*, or a signed letter to the Chief of Appeals at your tax services office or tax centre **within 90 days** of the date of the notice of assessment or notice of reassessment.

For more information, see Pamphlet P148 – *Resolving your Dispute: Objections and Appeal Rights under the Income Tax Act*.

# For more information

## What if you need help?

If you need help after reading this guide, visit **www.cra.gc.ca** or call **1-800-959-8281**.

## Forms and publications

To get our forms or publications, go to **www.cra.gc.ca/forms** or call **1-800-959-2221**.

## My Account

My Account is a secure, convenient, and time-saving way to access and manage your tax and benefit information online, seven days a week! If you are not registered with My Account but need information right away, use Quick Access to get fast, easy, and secure access to some of your information. For more information, go to **www.cra.gc.ca/myaccount** or see Pamphlet RC4059, *My Account for individuals*.

## My Payment

My Payment is a payment option that allows individuals and businesses to make payments online, using the Canada Revenue Agency's Web site, from an account at a participating Canadian financial institution. For more information on this self-service option, go to **www.cra.gc.ca/mypayment**.

## Tax Information Phone Service (TIPS)

For personal and general tax information by telephone, use our automated service, TIPS, by calling **1-800-267-6999**.

## Teletypewriter (TTY) users

TTY users can call **1-800-665-0354** for bilingual assistance during regular business hours.

## Related forms and publications

### Forms

RC240 *Designation of an Exempt Contribution Tax-Free Savings Account (TFSA)*

RC243 *Tax-Free Savings Account (TFSA) Return*

RC243-SCH-A *Schedule A – Excess TFSA Amounts*

RC243-SCH-B *Schedule B – Non-Resident Contributions to a Tax-Free Savings Account (TFSA)*

T400A *Objection – Income Tax Act*

### Interpretation Bulletins

IT-110R *Gifts and Official Donation Receipts*

IT-221R *Determination of an Individual's Residence Status*

IT-320R *Qualified Investments – Trusts Governed by Registered Retirement Savings Plans, Registered Education Savings Plans and Registered Retirement Income Funds*

IT-419R *Meaning of Arm's Length*

### Pamphlets

P148 *Resolving your Dispute: Objections and Appeal Rights under the Income Tax Act*

RC4059 *My Account for Individuals*

## Our service complaint process

If you are not satisfied with the **service** that you have received, please contact the CRA employee you have been dealing with or call the telephone number that you have been given. If you are not pleased with the way your concerns are addressed, you can ask to discuss the matter with the employee's supervisor.

If the matter is not settled, you can then file a service complaint by completing Form RC193, *Service-Related Complaint*. If you are still not satisfied, you can file a complaint with the Office of the Taxpayers' Ombudsman.

For more information, go to **www.cra.gc.ca/complaints** or see Booklet RC4420, *Information on CRA – Service Complaints*.

## Your opinion counts

If you have any comments or suggestions that could help us improve our publications, we would like to hear from you. Please send your comments to:

**Taxpayer Services Directorate**
**Canada Revenue Agency**
**750 Heron Road**
**Ottawa ON  K1A 0L5**