Canada Revenue Agency
Agence du revenu du Canada

Tax-Free Savings Account (TFSA)

Canada

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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 making any other important investment decisions, you should speak with your financial advisor or a representative at your financial institution to ensure you are aware of any conditions, limitations, or administrative fees which may be applicable.

Definitions

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

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What's new?

The Honourable Jim Flaherty, Minister of Finance, **proposed amendments** to the *Income Tax Act* to strengthen the rules applicable to Tax-Free Savings Accounts (TFSAs), effective October 17, 2009. For more information, see "Chapter 7 – Tax payable", on page 13.

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Definitions

Advantage – an advantage is defined as any benefit, loan, or debt that depends on the existence of the TFSA. If an advantage in relation to a TFSA is extended to any person who is, or who does not deal at arm's length with, the holder of the TFSA, there are tax consequences. Exceptions include TFSA distributions, administrative or investment services in connection with a TFSA, loans and debt on arm's-length terms, and payments or allocations to a TFSA by the issuer, such as reasonable payments of bonus interest. The amount of tax payable is:

- in the case of a benefit, the fair market value (FMV) of the benefit; and
- in the case of a loan or debt, the amount of the loan or debt.

An advantage may also include any increase in the value of the TFSA that can reasonably be considered to be attributable, directly or indirectly, to:

- a transaction or event (or a series of transactions or events) that does not reflect commercial terms and whose main purpose is to enable the holder (or another person or partnership) to benefit from the tax-exempt status of the TFSA; or
- a payment received in substitution for either a payment for services rendered by the holder or non-arm's length person, or a payment of a return on investment or proceeds of disposition in respect of property held outside of the TFSA by the holder or non-arm's length person.

Under proposed changes announced on October 16, 2009, for transactions after that date, an "advantage" will also include any earnings and gains reasonably attributable to deliberate excess contributions, prohibited investments and asset transfer (swap) transactions.

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 at arm's length**, includes individuals:

- related to each other by blood, marriage, adoption, or common-law relationships; or
- acting 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 – a person who is not the holder's **spouse**, 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.

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

MINUS:

- the unused TFSA contribution room at the end of the preceding calendar year;
- the total of all withdrawals made under the holder's TFSA in the preceding calendar year, other than a qualifying transfer;
- 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 under all TFSAs of the holder, other than a qualifying transfer or withdrawals that are more than the excess TFSA amount determined at that time.

Exempt contribution – this is a contribution made during the rollover period 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 Valuations*.

Holder – the individual who entered into the TFSA and, after their death, the individual's surviving spouse or common-law partner if designated as the successor holder of the TFSA. A **successor holder** designation is effective only if it is permitted under applicable provincial and territorial law and only if 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 – property that is not a qualified investment for the trust.

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 – common types of qualified investments include: 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 an exempt contribution), 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 which allows you to build and manage your own investment portfolio by buying and selling a variety of different types of investments.

Spouse – an individual has a spouse when he or she is legally married.

Successor holder – see holder

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.

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 (see the box below):
- 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.

Under proposed changes announced on October 16, 2009, certain withdrawals made in the previous year may not be added back in the following year, after that date. The exclusion in the first bullet also applies (after that date) to:

- withdrawals of amounts included in the definition of advantage;
- amounts on which income tax had to be paid by the TFSA trust; and
- any other income related to those amounts.

Chapter 1 – What is a TFSA

Since January 1, 2009, opening a Tax-Free Savings Account (TFSA) is a new way for residents of Canada to set money aside tax-free throughout their lifetime.

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

Administrative or other fees in relation to a TFSA and any interest on money borrowed in order 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 is eligible to open a TFSA?

Any individual (other than a trust) who is 18 years of age or older, and who has a valid Canadian social insurance number (SIN) can be a holder of 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
Julie turns 18 years old on May 13, 2010. She will not be able to open and contribute to a TFSA until that date, however, as of May 13, 2010, she can open and contribute to a TFSA the full 2010 dollar limit of $5,000.

Note
In certain provinces and territories, the legal age at which an individual can enter into a contract (which would include opening a TFSA) is 19. In 2009 or later in such jurisdictions, an 18-year-old who would be otherwise eligible, would accumulate $5,000 contribution room for that year and carry 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 "Chapter 2 – TFSA contribution room" below.

How to establish a TFSA

To establish a TFSA, you must contact your financial institution, credit union, or insurance company (issuer). As the TFSA holder, you will need to provide the issuer with your valid SIN and date of birth so that the issuer can register your **qualifying arrangement** as a TFSA. Failing to provide this information or providing incorrect information may cause the registration of the TFSA to be denied.

You can set up a self-directed TFSA if you prefer to build and manage your own investment portfolio by buying and selling a variety of different types of investments. If you are considering this type of arrangement, you may want to consult with your financial institution.

Chapter 2 – TFSA contribution room

Since January 1, 2009, Canadian residents who are 18 years of age or older with a valid SIN are eligible to contribute up to $5,000 annually to a TFSA.

The $5,000 TFSA dollar limit is indexed based on the inflation rate. The indexed amount will be rounded to the nearest $500. For example, assuming that the inflation rate is 2% for 2009 to 2011, the TFSA dollar limit would be $5,000 for 2009, 2010 and 2011, but would increase to $5,500 for 2012.

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** in the previous year; and
- any withdrawals made from the TFSA in the previous year, excluding **qualifying transfers**.

Under proposed changes announced on October 16, 2009, certain withdrawals made in the previous year may not be added back in the following year. For more information, see "Unused TFSA contribution room", on page 5.

TFSA contribution room accumulates every year, if at any time in the calendar year you are 18 years of age or older and a resident of Canada. **You do not have to set up a TFSA or file a tax return to earn contribution room**.

If, for example, an individual who is 18 years or older in 2009 is not obligated to file a tax return until 2016, they would be considered to have accumulated TFSA contribution room for each year starting in 2009.

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;
- becomes a resident or a non-resident of Canada.

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
John was eager to open his TFSA. He contributed the full $5,000 on January 2, 2009. On the advice of his broker, he had opened a self-directed TFSA and invested in stocks that over performed the market. By the end of 2009, the value in John's TFSA had increased in value to $6,800. John was worried that for 2010 he would only be able to contribute $3,200 (the TFSA dollar limit of $5,000 for 2010 less the $1,800 increase in value in his TFSA through 2009). 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 2010 to his TFSA.

Note
You can have more than one TFSA at any given time, as long as the total amount contributed to all your TFSAs during a year is not more than your available TFSA contribution room for that year.

Determining your contribution room

The Canada Revenue Agency (CRA) will determine the TFSA contribution room for each eligible individual based on information provided by you and the TFSA issuers. Your TFSA contribution room will be shown on your income tax notice of assessment or reassessment.

However, if at the time we issue your notice of assessment or reassessment we have not received or finished processing the information from your TFSA issuer(s), the amount indicated may not reflect the correct amount. You should verify the amount indicated on your notice of assessment or reassessment to make sure it corresponds to your records. Contact us if you notice any discrepancies.

If you are not required to file an income tax return for the year, and decide not to do so, you will not receive a notice of assessment showing your TFSA contribution room. In that case, you should keep track of your available TFSA contribution room to ensure that your contributions do not exceed your limit.

After you file a tax return, in addition to advising you of your unused TFSA contribution room on your notice of assessment, the CRA may also send a *TFSA Room Statement* later in the year, if the calculated amount of your unused TFSA contribution room has changed from the previously stated amount. A *TFSA Transaction Summary* of your contribution and withdrawal details as received from your TFSA issuer(s), will be available on request.

If you disagree with any of the transaction details 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 information return so that we can update our records.

Note
You can get TFSA contribution room information from My Account at **www.cra.gc.ca/myaccount**, or from our T.I.P.S. telephone service at **1-800-267-6999**.

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

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 unused TFSA contribution room.

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

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.

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 can be claimed 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**, under proposed changes** announced on October 16, 2009, 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

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. For information on withdrawing amounts from your TFSA, contact your TFSA issuer.

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

Under proposed changes announced on October 16, 2009, certain withdrawals made in the previous year may not be added back in the following year. For more information, see "Unused TFSA contribution room", on page 5.

Note
You cannot contribute more than your TFSA contribution room in a given year, even if you make withdrawals from the account during the year. If you do, 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.

Example 1
In 2009, Sarah contributed $5,000 to her TFSA. In 2010, she makes another $5,000 contribution to her TFSA. Later that year, she withdraws $3,000 for a trip to Europe. Unfortunately, her plans change 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 she wishes to re-contribute part or all of the $3,000, she will have to wait until the beginning of 2011 to do so. If she re-contributes before 2011, 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 2
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.

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 unused TFSA contribution room for 2011

2010 unused TFSA contribution room		$8,000
2010 withdrawal	+	$1,000
2011 TFSA dollar limit	+	$5,000
Unused TFSA contribution room at the beginning of 2011		$14,000

Chapter 3 – 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;
- live outside Canada throughout the tax year;
- stay in Canada for less than 183 days in the tax year; or
- do not have residential ties in Canada.

Even if you do not live in Canada, you may have residential ties which deem you to be a resident of Canada. These ties include where your home and personal property are, and where your spouse or common-law partner or dependants reside. Other ties that may be relevant include social ties, a driver's licence, Canadian bank accounts or credit cards, and provincial or territorial health insurance. For more information, see Interpretation Bulletin IT-221, *Determination of an Individual's Residence Status*.

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 unused 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 2010) 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% per-month 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 14.

Chapter 4 – Impact on your income-tested benefits

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.

Your Old Age Security (OAS) benefits, Guaranteed Income Supplement (GIS) or Employment Insurance (EI) benefits will not be reduced as a result of the income earned in, or the amount withdrawn 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, or the age credit.

Example
Denis is retired and, in addition to his pension, he receives 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 this $500 was earned in a regular savings account, it would have to be included as income on his tax return and, in addition to additional tax payable, could result in a social benefit repayment.

Denis' 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%)	X 15%	X 15%
Amount to be included on the tax return as a social benefit repayment	$0	$67.50

Chapter 5 – Qualifying Transfers

Between TFSAs of the same individual

If you have more than one TFSA, you can transfer funds **directly** from one of your TFSAs to another of your TFSAs without affecting your TFSA contribution room. You can do so as a qualifying transfer, without any tax consequences. However, if you withdraw funds from one TFSA and contribute those same funds to another TFSA, the transactions will affect your TFSA contribution room and you may be subject to tax on excess contributions. For more information, see "Chapter 7 – Tax payable", on page 13.

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. To do this, 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 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.

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 would be characterized as a regular contribution that would reduce their balance of unused TFSA contribution room.

Chapter 6 – Death of the TFSA holder

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

- 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 which combination of the above factors applies, the following can be affected:

- whether or not 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;
- whether a beneficiary can transfer amounts received to their own TFSA, within certain limits, and whether such a transfer 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/territorial succession legislation.

Note
If you wish to amend a prior beneficiary or successor holder designation, contact your TFSA issuer to determine the possibility of doing so according to the provisions of your plan.

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.

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 is 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 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*.

Example
Joan is living with her husband, George, in a province that recognizes TFSA beneficiary designation. Joan is the holder of a TFSA and designated George as the successor holder. Joan dies on February 15, 2010. The value of her TFSA on that date is $10,000. There is no excess TFSA amount in her account. Her estate is finally settled on September 1, 2010. By that time, an additional amount of $200 of income has been earned. As George meets all the conditions to be considered the successor holder, he becomes the successor holder of Joan's TFSA as of the date of her death.

The 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 completion of Form RC240, *Designation of an Exempt Contribution Tax-Free Savings Account (TFSA)*, would not be 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.

Excess TFSA amount at the time of death

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 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 must file an RC243, *Tax-Free Savings Account (TFSA) Return 20__*, 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 1% tax per-month on the highest amount for each month they are in an excess contribution position.

Example 1
Bob and Betty were a married couple. Each had TFSA contribution room of $5,000 for 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 designated 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 such, 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 an RC243, *Tax-Free Savings Account (TFSA) Return 20__*, and Form RC243-SCH-A, *Schedule A – Excess TFSA Amounts*, for the period from June up to and including September 2009.

Example 2
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 1% tax per-month on this excess TFSA amount for as long as this excess TFSA amount would stay 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 any payments made out of the TFSA that do not 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 available unused TFSA contribution room.

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 1% per-month tax 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 must file an RC243, *Tax-Free Savings Account (TFSA) Return 20__*, 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, when the holder of a deposit or an annuity contract under a TFSA dies, the TFSA ceases to exist and the holder is considered to have disposed of the contract or the deposit immediately before the time that the TFSA ceased to be a TFSA 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 beneficiaries.

The normal rules would apply for the reporting of 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 would 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 would have to be reported by them as income. Such payments will appear in box 028, "Other income", 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 would be reported on an NR4 slip, *Statement of Amounts Paid or Credited to Non-residents of Canada*, and would be 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 taxation year beginning January 1st of the following calendar year. The trust will be treated as having disposed of, and having immediately reacquired, its property for its FMV at that time. For as long as it would continue to exist, the trust would itself be taxable on any undistributed income (including, for its first taxation 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
Martin's mother passed away on January 9, 2010. 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, 2010. 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 028, "Other income". Martin can contribute any of the amounts he receives to his own TFSA as long as he has available unused TFSA contribution room.

Designation of an exempt contribution by a survivor

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

If designated as a beneficiary, the survivor 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
Emma died on February 2, 2010. She was living with her common-law partner, Fred, in Ontario. The value of her 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 14, 2010. By that time, an additional amount of $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 this amount in box 028 as "Other income."

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.

Chapter 7 – Tax payable

Generally, interest, dividends or capital gains earned in respect of 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 will provide information and examples of when and how these taxes are payable, and by whom.

Some of the tax consequences set out in this chapter will be amended as a result of **proposed changes** announced on October 16, 2009. More information about the specific changes is available within the description of each tax consequence.

Tax payable on excess TFSA amount

You have an excess TFSA amount at any time in a year if the total of all TFSA contributions you made in the year up to that time (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 lesser of the amount of the withdrawal or the previously determined excess TFSA amount. Any portion of a withdrawal which 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.

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

> **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 10.

The 1% per-month tax will continue to apply for each month that the excess amount remains in the TFSA. It will continue to apply, on a pro-rata basis, until the earlier of:

- when the entire excess amount is withdrawn; or
- for eligible individuals, when the entire excess amount is absorbed by the addition of your unused TFSA contribution room, in a later year.

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

This 1% per-month tax is applicable on the highest excess TFSA amount in your account for each month in which an excess exists. Since it is based on the highest excess TFSA amount, this means that the 1% tax would be applicable for a particular month even if an excess amount was contributed and later withdrawn during the same 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 an RC243, *Tax-Free Savings Account (TFSA) Return 20* __, 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 tax" on page 17.

Under proposed changes announced on October 16, 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 16.

Example 1
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 29.

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 29 were $7,100 ($3,000 + $4,100) and this total exceeded her available contribution room of $5,000.

Assuming Theresa makes no further TFSA contributions and no withdrawals during the remainder of 2009, she would be subject to a tax of $63 on her excess TFSA amount. This amount is calculated as 1% per month for each of October to December x 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 29, Theresa had realized her mistake and withdrawn $2,100 on October 31, she would still be subject to the 1% tax on the excess TFSA amount of $2,100 but only for the month of October. As such, her tax payable would be $21 ($2,100 × 1% × 1 month).

Example 2
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 that year was $5,000. The first contribution which 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 will be subject to a tax on his excess contributions. This tax is equal to 1% of the highest excess TFSA amount in each month and is applicable until Jamal either withdraws the entire excess amount or until he builds up enough unused TFSA contribution room to absorb the excess.

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

Highest excess TFSA amount per month for January to May = 0. No penalty 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 is $110. Note that although $800 was withdrawn in October, the tax is 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 has 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 is $1,400 × 1% × 2 months, which is $28. Therefore, in total for 2009, his tax is $138 ($110 for June to October + $28 for November to December).

Example 3
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.

Assuming the TFSA dollar limit remains at$5,000 for 2009 to 2011, and also assuming Luisa makes no further contributions or withdrawals, she would be subject to a tax on an excess TFSA amount in both 2009 and 2010. The amount of tax payable for each of the respective years would be calculated as follows:

2009
After having made 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 which existed in her account was therefore $7,000 for every month from June to December. This means she would be 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. As of January 1, 2010, she will accumulate a new TFSA dollar limit of $5,000. Although this helps to reduce the excess TFSA amount in her account as of that month (from $7,000 down to $2,000), it doesn't completely eliminate or absorb it. Luisa will continue to have an excess TFSA amount of $2,000 in her account through all of 2010. As such, she would be subject to 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 will accumulate a new TFSA dollar limit of $5,000. This will fully eliminate or absorb the excess TFSA amount in her account. Luisa would have available contribution room of $3,000 and, as long as she does not contribute more than this amount to her TFSA through the remainder of 2011, she will not be subject to any tax on an excess TFSA amount for 2011.

Example 4
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' unused TFSA contribution room as of 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 is $2,000, since this is the maximum amount which eliminated the previously determined excess TFSA 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 be used to reduce any future excess TFSA amount. In other words, if Gilles was to make a new contribution of $1,000 on July 6, 2010, this would result in an excess TFSA amount, as of that date, of $1,000.

Example 5
From the previous example, had Gilles withdrawn $900 on May 17 (instead of withdrawing $3,200), the qualifying portion of the withdrawal would have been the full $900, since the entire amount would have reduced (but not totally eliminated) his previously determined excess TFSA amount of $2,000.

In this case, an excess TFSA amount of $1,100 would remain in his account as of the date 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 was to make a new contribution of $1,000 on July 6, 2010, this would result in an excess TFSA amount, as of that date, of $2,100 ($1,100 + $1,000).

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 have made while a non-resident of Canada, you will be liable to a 1% per-month tax on these contributions.

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 the earlier of:

- when these contributions are withdrawn in full from the account and designated as a withdrawal of non-resident contributions; or
- when you become a resident of Canada.

An individual is not subject to the 1% tax 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.

> **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 reduce the tax otherwise payable. It is necessary for the full amount of a non-resident contribution to be withdrawn in order for the 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 20__*, and Form RC243-SCH-B, *Schedule B – Non-Resident Contributions to a Tax-Free Savings Account (TFSA)*.

Note
In addition to the 1% per-month tax on the contributions made while a non-resident, you may also be subject to a separate 1% per-month tax 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 form, see "TFSA Return and payment of tax", on page 17.

Example 1
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 8, 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 the case 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 + 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 is a non-resident. Since the $3,000 he contributed was while he was a non-resident, he would be subject to a tax of 1% of this amount for each month from August to November. He is not subject to tax for the month of December as he re-established Canadian residency in that month. Accordingly, Hassan would be subject to $120 in tax based on his non-resident contribution ($3,000 × 1% × 4 months).

Example 2
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 is still a non-resident of Canada and she has not made any withdrawals from her account.

For 2010, Gemma will be subject to tax on the contribution she made while she was a non-resident and she will also be 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 is 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 would be $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 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 would be $150 ($2,500 × 1% × the 6 months including July to December 2010.)

In addition, 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 is also subject to the 1% per-month tax on this amount for July to December 2010. Her tax on excess TFSA amounts would therefore be $90 ($1,500 × 1% × 6 months.)

For 2010, Gemma would therefore be subject to 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 contributed while she was a non-resident in order to avoid any additional 1% per-month tax on the non-resident contributions as well as on the $1,500 excess TFSA amount.

Tax payable on non-qualified investments

If, in a calendar year, a trust governed by a TFSA acquires property that is 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.

Note
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.

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.

The tax is equal to 50% of the 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 20__*.

For information on the filing deadline for this return, see "TFSA Return and payment of tax", on page 17.

> **Note**
> This tax may be refundable. See "Refund of taxes paid", on page 17.

Reporting requirements by the trust governed by a TFSA

The TFSA issuer is required, 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, to provide relevant information to the CRA and the holder of the TFSA. Such information would include, where applicable, description(s) of the property(ies), date(s) of acquisition or disposition, and the FMV at the relevant time(s). This information is necessary for the TFSA holder in order to enable them to determine the amount of any tax payable or of any possible refund of tax previously paid.

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 in terms of reporting requirements and tax payable on the part of the TFSA holder.

> **Note**
> 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

The holder of a TFSA that is governed by a trust which holds a prohibited investment during the calendar year 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 qualified investment becomes prohibited.

If the prohibited investment becomes a qualified investment while it is held by the trust, the trust is considered to have disposed of and immediately reacquired 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.

> **Note**
> This tax may be refundable. See "Refund of taxes paid", on page 17.

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 taxation 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 is required to complete and file an RC243, *Tax-Free Savings Account (TFSA) Return 20__*.

Under proposed changes announced on October 16, 2009, for transactions after that date, the additional tax on income or gain on prohibited investments as noted in the preceding paragraph, will no longer be applicable. Instead, the earnings or increase in value reasonably attributable to a prohibited investment will meet the definition of "advantage" and will be subject to tax under the advantage rules. For more information, see "Tax payable on an advantage", below.

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

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 be applicable 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 is required to complete and file an RC243, *Tax-Free Savings Account (TFSA) Return 20__*.

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

Under proposed changes announced on October 16, 2009, for transactions after that date, an "advantage" will also include any earnings and gains reasonably attributable to deliberate excess contributions; prohibited investments and asset transfer (swap) transactions.

TFSA Return and payment of tax

Generally, there is no tax payable, and a tax return is not required to be completed and filed, in connection with most TFSA situations. In certain circumstances, however, a tax return is required to be completed and filed where one or more TFSA-related taxes are applicable.

For each year where a TFSA holder is subject to one or more tax, they must file an RC243, *Tax-Free Savings Account (TFSA) Return 20__*, and remit any tax owing no later than June 30 following the calendar year for which the tax is payable.

If a TFSA Return is required but has not been filed, the CRA may use information provided by the TFSA issuers in order to calculate tax payable on your behalf. In such a situation, you would be sent an RC243-P, *Proposed Tax-Free Savings Account (TFSA) Return 20__*. You would then be required to sign and return a copy, along with a cheque for the calculated amount payable. Additional instructions would be provided with the proposed return describing what to do if you disagree with our calculations which would be based on information which was provided to the CRA by your TFSA issuer(s).

Refund of taxes paid

The TFSA holder may be entitled to a refund of the one-time 50% of FMV 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 such later time as is 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.

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 and disposition of the non-qualified or prohibited property. 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

For more information

Contact us

In this publication, we use plain language to explain the most common tax situations. If you need more information after reading the guide, go to **www.cra.gc.ca/tfsa** or contact us at **1-800-959-8281**.

Tax Information Phone Service (T.I.P.S.)

T.I.P.S. is an automated phone service that provides you with general and personal tax information. You can call T.I.P.S. to find out how much you can contribute to your TFSA.

Starting in June until the end of December, T.I.P.S. TFSA service will be available for TFSA information. You will be asked to provide your social insurance number, your month and year of birth, and the total income you reported on line 150 of your prior year's return. The T.I.P.S. telephone number is **1-800-267-6999**.

Teletypewriter (TTY) users

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

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 now. For more information, go to **www.cra.gc.ca/myaccount**, or see Pamphlet RC4059, *My Account for Individuals*.

Forms and publications

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

Interpretation Bulletins

IT110R	*Gifts and Official Donation Receipts*
IT221R	*Determination of an Individual's Residence Status*
IT320R	*Qualified Investments-Trusts Governed by Registered Retirement Savings Plans, Registered Education Savings Plans and Registered Retirement Income Funds*
IT419R	*Meaning of Arm's Length*

Forms

RC240	*Designation of an Exempt Contribution Tax-Free Savings Account (TFSA)*
RC243	*Tax-Free Savings Account (TFSA) Return* 2009
RC243-SCH-A	*Schedule A – Excess TFSA Amounts*
RC243-SCH-B	*Schedule B – Non-Resident Contributions to a Tax-Free Savings Account (TFSA)*

Publication

RC4059	*My Account for Individuals*

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