



## RRSPs AND TFSAs

### – Unused contribution room at death

Since its introduction in 1957, the Registered Retirement Savings Plan (RRSP) has become a commonly used vehicle in retirement planning. A key benefit of RRSPs is the ability to carry forward unused deduction room (often referred to as “contribution room”) for use in any future year. Many Canadians, whether deliberately or not, have benefitted from this feature – some because they don’t have the cash to contribute for the year as the contribution room becomes available, and others because of a decision to defer contributions to a future year when they are in a higher tax bracket. Regardless of the reason, unused deduction room can be carried forward indefinitely, and is available for future use. Where maximum contributions have not been made, provided the annuitant’s age (or that of a spouse if any) allow for RRSP (or spousal RRSP) contributions, taxpayers can make use of the unused room.

It is not unusual for a taxpayer to die with unused RRSP deduction room. If contributions were made prior to death, but not yet deducted, indeed the contributions can be deducted for the year of death, subject to available room. But what if, at the time of death, unused room is available but contributions have not been made? Are there opportunities to make use of the unused room? Consider the following example:

*Roger died in September 2019. At the time of death, he had unused RRSP deduction room of \$40,000 and no undeducted contributions (i.e. all prior year contributions have already been deducted). In addition, prior to his death, Roger earned \$80,000 worth of employment income which is taxable on his terminal tax return. In settling Roger’s estate, his executor wondered if there was a way to make use of Roger’s \$40,000 of unused room, which would be helpful in reducing his taxable income for the year of death.*

Tax legislation does not allow for contributions to be made to an RRSP of a deceased annuitant. This is confirmed by CRA guide T4040, RRSPs and Other Registered Plans for Retirement (see “Contributing to your spouse’s or common-law partner’s RRSP, Specified Pension Plan (SPP) or both – Contributions made after death”). In other words, unused RRSP deduction room at death is normally lost. However, the guide goes on to confirm that where the deceased has a surviving spouse or common-law partner who is age 71 or younger, contributions can be made to a spousal RRSP. Subject to the deceased’s unused RRSP deduction room, contributions by the deceased’s estate to a spousal RRSP would be deductible on the deceased’s terminal tax return offsetting taxable income for the year of death. The spousal RRSP contribution must be made in the year of death or within 60 days after the year of death.

Applying these rules to Roger’s situation, in the absence of a surviving spouse or common-law partner, Roger’s unused RRSP room would be lost. However, if Roger had a spouse or common-law partner at the time of death who was age 71 or younger and a beneficiary of his estate, subject to his spouse’s entitlement from the estate, his executor could make a contribution of up to \$40,000 to a spousal RRSP, which would offset Roger’s taxable income for the year of death.

Given that there is some flexibility to use unused RRSP deduction room after death, albeit through a spousal RRSP, some have wondered about the tax-free savings account (TFSA) and whether a similar post-mortem planning opportunity is available for it. Like RRSP deduction room, unused TFSA contribution room can be carried forward indefinitely for use in a future year. Where a taxpayer dies with unused TFSA contribution room, is there an opportunity to make use of the unused room?

*Beth died in October 2019. At the time of her death, Beth had unused TFSA contribution room of \$40,000. In settling her estate, her executor wondered if there was a way to make use of Beth's unused TFSA room, which would be helpful to her surviving spouse, Bill, who was successor holder\* of Beth's plan and beneficiary of her estate. If there was a way to make use of Beth's unused TFSA contribution room, perhaps by way of a contribution to Beth's TFSA, Bill would be in a position to receive Beth's enhanced TFSA without impact to his own TFSA contribution room, allowing him to benefit from both Beth's TFSA and his own.*

Under the Income Tax Act (ITA), only the holder of a TFSA (i.e. the person who establishes the account), can contribute to the account. Once the holder dies, only a spouse or common-law partner can become holder of the same plan

if named successor holder\*. There is no provision to allow for the deceased's estate to contribute to the account, and, unlike RRSPs, there are no "spousal TFSAs." So, in the above situation, Beth's unused TFSA contribution room at the time of death would be lost. If, as successor holder\*, Bill was to make a contribution to Beth's TFSA, the contribution would impact his own contribution room – it would not make use of Beth's unused room.

RRSPs and TFSAs are key vehicles when it comes to tax-efficient investing. Unfortunately though, sometimes contribution room for both plans goes unused because of death. Where appropriate, understanding the opportunity to make use of unused RRSP room at death can go a far way in minimizing taxes payable. The same opportunity, however, is not currently available for TFSAs.

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\* The "successor holder" designation is not currently available in Quebec unless the funds are invested in an insurance or annuity contract.

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