

THE Guardian

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Spring 2015

THE CHANGING LANDSCAPE OF TRUSTS

As we outlined in detail in the spring 2014 newsletter (go to www.solguard.com & click on newsletter or contact your advisor), starting 2016, we will see the phasing out of graduated marginal tax rates on testamentary trusts.

So while there are still valid reasons to utilize a testamentary trust, with the tax incentive largely eliminated, it is expected we will see greater utilization of alter ego and joint-partner trusts.

Alter ego and joint-partner trusts were first introduced in 2000 and are available to Canadian residents aged 65 and older. With an alter ego trust, only the settlor is entitled to trust capital and income before his or her death. With a joint-partner trust, the settlor and his or her spouse or common-law partner are entitled to receive all the trust's income while alive and no one other than the settlor and his or her spouse or partner can be entitled to the capital until the death of the last surviving spouse.

Note that personal assets can be transferred into the trust without triggering capital gains.

There are a number of key benefits associated with alter ego and joint-partner trusts.

- 1. Minimize estate administration and probate fees:** Alter ego and joint-partner trusts do not form part of an individual's assets on death because he or she is not the legal owner of those assets at that time. As a result, probate fees are not payable on the value of trust assets on death.
- 2. Privacy:** Unlike a Will, which becomes a public document if probated, alter ego and joint-partner trusts allow estate affairs to be kept private. This can be particularly valuable for high-net-worth individuals who wish to keep the value of assets as well as the recipients confidential.

3. Protection against legal claims: Beneficiaries (or those who feel they should be beneficiaries) may challenge a Will if they feel they have not been treated fairly. With an alter ego or joint-partner trust, there is no Will to contest and therefore, little opportunity to challenge the distribution of assets. Therefore, alter ego and joint-partner trusts may allow individuals to avoid dependant's relief legislation by disinheriting close relatives who may otherwise obtain relief by challenging a Will.

4. Speedy distribution of assets: The probate process can be lengthy, causing the distribution of Estate assets to take months, or even years. With an alter ego or joint-partner trust, trustees will already be the legal owners of the trust property and can proceed to distribute the assets soon after the client's death.

5. Effective management during incapacity: Alter ego and joint-partner trusts may eliminate the need for Powers of Attorney. If a client loses mental capacity, the trustee (or contingent trustee) will already have control of all decisions and can simply continue with her duties. This allows clients to maintain continuity in the management of trust assets.

An important tax change for alter ego and joint-partner trusts also takes effect January 2016. Specifically, in the year of death of the settlor of an alter ego trust, or the death of the surviving spouse in the joint-partner trust, the income, including capital gains triggered as a result of the death, will be taxed in the deceased individuals terminal return and not the trust. The potential unintended consequence of this means that the tax cost will fall on the deceased's estate beneficiaries and not the beneficiaries of the trust.

Consider the story of Jack and Diane, both 67 years old, second marriage for both and each with two children from their previous marriage.

Diane has a substantial investment portfolio which she transfers to a joint-partner trust. Under the terms of the trust, income is payable to either Jack or Diane, and to Jack if Diane were to pre-decease him. At death of the last surviving spouse, Diane wishes the capital in the trust to pass to her two children from her previous marriage.

Under the previous rules, assuming Jack is the surviving spouse, upon his death, any taxes due are payable from the trust, reducing the capital that will pass on to Diane's children. Under the new rules assuming Jack passes away in 2016 or later, taxes due in the trust are payable by Jack's Estate, thereby reducing his Estate, presumably to go to his own two children.

The new rules will impact all alter ego and joint-partner trusts and individuals currently utilizing such trusts must take into account that their Estate distribution may be distorted as a result of the new rules.

Marginal Tax Rates for 2015 (BC)

Taxable Income	Fed. Tax Rate (%)	Prov Tax Rate (%)	Total Tax Rate (%)	Capital Gains (%)	Eligible Dividends (%) (actual not grossed)	Non-eligible Div. (%)
0 - 37,869	15	5.06	20.06	10.03	-6.84	7.61
37,869 - 44,701	15	7.70	22.70	11.35	-3.20	10.73
44,701 - 75,740	22	7.70	29.70	14.85	6.46	18.99
75,740 - 86,958	22	10.50	32.50	16.25	10.32	22.29
86,958 - 89,401	22	12.29	34.29	17.15	12.79	24.40
89,401 - 105,592	26	12.29	38.29	19.15	18.31	29.12
105,592 - 138,586	26	14.70	40.70	20.35	21.64	31.97
138,586 - 151,050	29	14.70	43.70	21.85	25.78	35.51
151,050 - +	29	16.80	45.80	22.90	28.68	37.98

Tax Credits

Personal Tax Credit

Federal \$11,327 x 15% = \$1,699
 Provincial \$9,938 x 5.06% = \$503

Spousal (less than \$851)¹

Federal \$11,327 x 15% = \$1,699
 Provincial \$8,509 x 5.06% = \$ 430

Age 65+ (less than \$33,174)²

Federal \$ 7,033 x 15% = \$1,055
 Provincial \$ 4,457 x 5.06% = \$ 225

OAS Clawback

Starts at \$72,809

Other Items

CPP & OAS Rates

Max CPP \$1,065.00/mo.
 Max OAS \$563.74/mo.

RRSP Contribution Limit

\$25,370 2015

¹ Reduced as spouse's income exceeds \$851.

² Reduced when income exceeds \$33,174.

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**REGISTERED RETIREMENT INCOME FUND (RRIF)
STATUTORY MINIMUM MONTHLY INCOMES BASED ON \$100,000
COMMENCING ONE MONTH FROM ISSUE**

Best Current Rate: 2.18%

Age	1st Year	TOTAL PAYMENTS TO AGE 100	A R.R.I.F. can also be structured to pay a level income for a shorter period. Based on current interest rates, \$100,000 will produce the following monthly income. For 5 years:\$1760.00 For 10 years:\$910.00 For 15 years:\$634.00
55	\$239.00	\$149,159.17	
60	278.00	140,374.98	
65	334.00	132,219.77	
71	616.00	123,180.52	

**MONTHLY ANNUITY INCOMES COMMENCING
ONE MONTH FROM ISSUE BASED ON \$100,000**

Age	LIFE (Payments cease at death)		LIFE 10 Year Guarantee		JOINT LIFE 10 Year Guarantee
	MALE	FEMALE	MALE	FEMALE	MALE & FEMALE
55	\$411.19	\$383.68	\$407.45	\$383.52	\$356.76
60	456.38	421.79	448.33	418.05	383.55
65	527.82	470.88	516.15	465.22	427.45
71	651.44	567.46	603.00	549.61	492.60



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