



Canada Revenue  
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Canada

# Preparing Returns for Deceased Persons

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# 2005



More Ways to Serve You!

**NOTE:** In this publication, the text inserted between square brackets represents the regular print information.

# **Before you start**

## **Is this guide for you?**

Use this guide if you are the legal representative (see page 19 [5] ) who has to file an income tax and benefit return for a deceased person. Use it together with the guide that came with the deceased person's return.

## **Which return should you use?**

You can use a T1 GENERAL INCOME TAX AND BENEFIT RETURN. However, the deceased may have received a different return in the mail based on his or her situation last year. If the return covers the types of income you want to report and the deductions and credits you want to claim, you can use it instead of a T1 GENERAL INCOME TAX AND BENEFIT RETURN. You cannot use a T1S-C, CREDIT AND BENEFIT RETURN, to complete a return for a deceased person.

### **Note**

If you cannot get a return for the year of death, use a blank one from a previous year. In the top right corner of page 1, write the

year for which you are filing. We will assess the return based on the legislation in effect for the year of death.

## **Forms and publications**

Throughout this guide, we refer to other forms and publications. If you need the General income tax package, or any other forms or publications, you can visit our Web site at **[www.cra.gc.ca/forms](http://www.cra.gc.ca/forms)** or order them by calling **1-800-959-2221**.

Any schedules mentioned in this guide are in the General income tax package.

## **What if you need help?**

This guide uses plain language to explain the most common income tax situations. If you need help after reading this guide, visit our Web site at **[www.cra.gc.ca](http://www.cra.gc.ca)** or call **1-800-959-8281**.

## What's new for 2005?

**Donations and gifts** – Under proposed legislation, for a gift of certain property made to a qualified donee effective 6:00 p.m. EST on December 5, 2003, the fair market value of the gift may be limited. For more information, see the section called "Line 349 – Donations and gifts" on page 67 [14].

**Marital status** – Amendments to the INCOME TAX ACT regarding same-sex relationships have now become law. The CRA has made adjustments to reflect these changes.

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## Glossary

**Adjusted cost base (ACB)** – usually the cost of a property, plus any expenses to acquire it, such as commissions and legal fees.

The cost of a capital property is its actual or deemed cost, depending on the type of property and how you acquired it. It also includes capital expenditures, such as the cost of additions and improvements to the property. You cannot add current expenses, such as maintenance and repair costs, to the ACB of a property.

For more information on ACB, see Interpretation Bulletin IT-456, CAPITAL PROPERTY – SOME ADJUSTMENTS TO COST BASE, and its Special Release.

If the deceased filed Form T664 or T664 (Seniors), ELECTION TO REPORT A CAPITAL GAIN ON PROPERTY OWNED AT THE END OF FEBRUARY 22, 1994, the ACB of the property may change. For more information, see guide T4037, CAPITAL GAINS.

**Advantage** – see the definition of **Eligible amount of the gift** on page 15 [this page].

**Annuitant** – generally, an annuitant is the person for whom a retirement plan provides a retirement income. In certain circumstances, the surviving spouse or common-law partner may qualify as the annuitant when, because of the death, he or she becomes entitled to receive benefits out of the retirement plan.

**Annuity payment** – a fixed periodic payment that a person has the right to receive, either for life or for a specific number of years. These payments represent a partial recovery of financing and a return (interest) on the capital investment.

**Arm's length transaction** – a transaction between persons each of whom acts in his or her own self-interest. Related persons are not considered to deal with each other at arm's length. Related persons include individuals connected by a blood relationship, marriage or common-law partnership, or adoption (legal or in fact). Also, a corporation and a shareholder who controls the corporation are related.

Unrelated persons usually deal with each other at arm's length, although this might not be the case if, for example, one person is under the influence or control of the other.

For more information on arm's length, see Interpretation Bulletin IT-419, MEANING OF ARM'S LENGTH.

**Capital cost allowance (CCA)** – in the year you buy a depreciable property (defined later in this Glossary), such as a building, you cannot deduct the full cost. However, since this type of property wears out or becomes obsolete over time, you can deduct its capital cost over a period of several years. This deduction is called CCA. You cannot claim it for the fiscal period that ends on the date of death.

When we talk about CCA, a reference is often made to **class**. You usually group depreciable properties into classes. You have to base your CCA claim on the rate assigned to each class of property.

**Capital property** – includes depreciable property, and any property that, if sold, would result in a capital gain or a capital loss. You usually buy it for investment purposes or to earn income. Capital property does not include the trading assets of a business, such as inventory. Some common types of capital property include cottages; securities such as stocks, bonds, and units of a mutual fund trust; and land, buildings, and equipment used in a business or rental operation.

**Common-law partner** – this applies to a person who is **not your spouse**, with whom you live and have a relationship, and to whom at least **one** of the following situations applies. He or she:

- a) has been living with you in such a relationship for at least 12 continuous months;
- b) is the parent of your child by birth or adoption; or
- c) has custody and control of your child (or had custody and control immediately before the child turned 19 years of age) and your child is wholly dependent on that person for support.

An individual immediately becomes your common-law partner if you previously lived together in a conjugal relationship for at least twelve continuous months and you 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 your common-law partner only after your 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 you were separated for less than 90 days because of a breakdown in the relationship.

**Deemed disposition** – expression used when a person is considered to have disposed of a property, even though a sale did not take place.

**Deemed proceeds of disposition** – expression used when a person is considered to have received an amount for the disposition of property, even though the person did not actually receive that amount.

**Depreciable property** – usually capital property used to earn income from a business or property. The capital cost can be written off as CCA over a number of years.

**Eligible amount of the gift** – under proposed legislation, this is generally the amount by which the fair market value (defined on page 16 [5] ) of the gifted property exceeds the amount of the advantage, if any, received for the gift.

Under proposed legislation, the **advantage** is generally the total value of all property, services, compensation, or other benefits to which you

are entitled as partial consideration for, or in gratitude for, the gift. The advantage may be contingent or receivable in the future, and given either to you or a person not dealing at arm's length with you.

Under proposed legislation, for gifts made after February 18, 2003, the advantage also includes any limited-recourse debt in respect of the gift at the time it was made. For example, there may be a limited-recourse debt if the property was acquired through a tax shelter that is a gifting arrangement. In this case, the eligible amount of the gift will be reported in box 13 of Form T5003, STATEMENT OF TAX SHELTER INFORMATION. For more information on gifting arrangements and tax shelters, see T4068, GUIDE FOR THE PARTNERSHIP INFORMATION RETURN.

**Fair market value (FMV)** – usually the highest dollar value that you can get for your property in an open and unrestricted market between a willing buyer and a willing seller who are acting independently of each other.

**Locked in** – in this guide, locked in means that the beneficiary who is to receive the property has a right to absolute ownership of it. No

future event or development can take this right away. In order for a property to be locked in:

- for a spousal or common-law partner trust, it has to become locked in before the surviving spouse or common-law partner dies; and
- for an individual, it has to become locked in before the individual dies.

**Non-arm's length transaction** – a transaction between persons who were not dealing with each other at arm's length at the time of the transaction.

**Qualified donee** – generally includes:

- a registered Canadian charity;
- a registered Canadian amateur athletic association;
- a Canadian tax exempt housing corporation that only provides low-cost housing for seniors;
- a municipality in Canada or, for gifts made after May 8, 2000, a municipal or public body performing a function of government in Canada;

- the United Nations (UN) or an agency of the UN;
- a prescribed university outside Canada;
- a charitable organization outside Canada to which the Government of Canada has made a donation in 2004 or 2005; and
- the Government of Canada, a province, or a territory.

**Spouse** – this applies only to a person to whom you are legally married.

**Testamentary spousal or common-law partner trust** – a trust created by the deceased's will, or a court order in relation to the deceased's estate made under any law of a province or territory that provides for the relief or support of dependants. The surviving spouse or common-law partner is entitled to all the income of the trust that arises before he or she dies. No one else can receive or use the trust's income or capital before the surviving spouse's or common-law partner's death.

For more information, see Interpretation Bulletin IT-305,  
TESTAMENTARY SPOUSE TRUSTS.

**Testamentary debts** – debts or liabilities of all kinds that an individual incurred and did not pay before death. It also includes amounts payable by the estate because of death.

**Undepreciated capital cost (UCC)** – generally, UCC is equal to the total capital cost of all the properties of a class **minus** any capital cost allowance claimed in previous years. When property of the class is disposed of, you also have to subtract from the UCC one of the following two amounts, **whichever is less**:

- the proceeds of disposition of the property (either actual or deemed) minus the related outlays and expenses to sell it; or
- the capital cost of the property.

## **Chapter 1 – General information**

### **Are you the legal representative?**

If you are an executor, an administrator, or a liquidator, you are the legal representative of a deceased person.

**Executor** – This is someone a will names to act as the legal representative to handle a deceased's estate.

**Administrator** – There may not be a will, or the will may not name an executor. In this case, a court will appoint an administrator to handle the deceased's estate. An administrator is often the spouse, common-law partner, or the next of kin.

**Liquidator** – In Quebec, the liquidator is responsible for distributing assets of all estates. For estates with a will, the liquidator's role is similar to an executor's. For estates without a will, the liquidator acts as the administrator of the estate.

## **What are your responsibilities as the legal representative?**

As the legal representative, you should provide us with the deceased's date of death as soon as possible. To keep our records up to date, send us the following information:

- a copy of the death certificate; and

- a **complete** copy of the will or other legal document (letters of administration or a grant of probate) that shows you are the legal representative.

Include this information with the final return if you did not send it right after the deceased's death.

### **Note**

We do not administer the social insurance number (SIN) program. However, Social Development Canada (formerly Human Resources Development Canada) should be advised of the deceased's date of death. You can find the phone number in the government section of your telephone book.

This guide deals only with your responsibilities under the INCOME TAX ACT (the Act). Under the Act, as the legal representative, it is your responsibility to:

- file all required returns for the deceased;
- pay all taxes owing; and

- let the beneficiaries know which of the amounts they receive from the estate are taxable.

As the legal representative, you are responsible for filing a return for the deceased for the year of death. This return is called the **final return**. See Chapter 2, beginning on page 34 [8], for more information.

You also have to file any returns for previous years that the deceased person did not file. If the person did not leave records about these returns, or if you cannot tell from existing records whether or not the returns were filed, contact us. If you have to file a return for a year before the year of death, use a T1 GENERAL INCOME TAX AND BENEFIT RETURN for that year.

You have to file a T3 TRUST INCOME TAX AND INFORMATION RETURN, for income of the estate earned after the date of death. If the terms of a trust were established by the will or a court order in relation to the deceased individual's estate under provincial or territorial dependant relief or support law, you also have to file a T3 TRUST INCOME TAX AND INFORMATION RETURN for that trust. However, you may not have to file a T3 return (not to be confused with the final return, which always has



to be filed) if the estate is distributed immediately after the person dies, or if the estate did not earn income before the distribution. In these cases, you should give each beneficiary a statement showing his or her share of the estate. See the T4013, T3 TRUST GUIDE, for more information and, where a trust is created, to determine whether that return has to be filed. See Chart 2 on page 147 [27] to find out what income to report on the T3 return.

## **Do you need information from the deceased person's tax records?**

You can contact us for information from the deceased's tax records. When you write for such information, include the words "The Estate of the Late" in front of the deceased person's name. Include your address so we can reply directly to you. Before we can give you information from the deceased's records, we need the following:

- a copy of the death certificate;
- the deceased's social insurance number; and
- a copy of the will, trust agreement, or letter of administration that shows you are the legal representative.

If you visit us to get information from the tax records of the deceased, you also have to show us one piece of identification with your picture and signature on it, or two pieces with your signature on them.

## **Goods and services tax/harmonized sales tax (GST/HST) credit received after the date of death**

Generally, GST/HST credit payments are issued on the fifth day of the month in July, October, January, and April. If the deceased was receiving GST/HST credit payments, we may still send out a payment after the date of death because we are not aware of the death. If this happens, you must return the payment to us.

### **Note**

If the deceased was receiving the Newfoundland Harmonized Sales Tax Credit (NHSTC) or the Saskatchewan Sales Tax Credit (SSTC), which we administer, you do not need to take any further action. We will use the information provided for the GST/HST credit payments to adjust the NHSTC or the SSTC.

## **What if the deceased's GST/HST credit is for the deceased only?**

If a single person dies in a month before we send a quarterly GST/HST credit payment, no one else can receive the payment. We cannot make any more payments either in that person's name or to the estate.

If a single person dies during or after a month in which we issue the credit and the payment has not been cashed, return it to us so that we can send the payment to the person's estate.

If the deceased had children for whom he or she was receiving the GST/HST credit, the new caregiver should contact us as he or she may qualify to receive GST/HST credit payments for these children.

## **What if the deceased's GST/HST credit is for the deceased and his or her spouse or common-law partner?**

If the deceased had a spouse or common-law partner, that person may be eligible to receive the GST/HST credit payments based on his or her net income alone. If the deceased's GST/HST credit included a claim for that spouse or common-law partner, he or she should:

- contact us and ask to receive the GST/HST credit payment for the remainder of the year for himself or herself and any children, if applicable; and
- file an income tax and benefit return for the applicable previous year if he or she has not already done so.

### **What if the surviving spouse's or common-law partner's GST/HST credit included a claim for the deceased?**

If the surviving spouse's or common-law partner's GST/HST credit included an amount for the deceased, the payments will be recalculated based on his or her net income alone and will only include a claim for himself or herself and any children, if applicable.

### **What if the deceased is an eligible child?**

Entitlement to GST/HST credit payments for a deceased child stops the quarter after the child's date of death. You should notify us of the date of death so that we can update our records.

For more information on what steps to take regarding receipt of the GST/HST credit or the Canada Child Tax Benefit, see Information Sheet RC4111, WHAT TO DO FOLLOWING A DEATH.

## **Clearance certificate**

As the legal representative, you may want to get a clearance certificate before you distribute any property under your control. A clearance certificate certifies that all amounts for which the deceased is liable to us have been paid, or that we have accepted security for the payment. If you do not get a certificate, you can be liable for any amount the deceased owes. A certificate covers all tax years to the date of death. It is not a clearance for any amounts a trust owes. If there is a trust, a separate clearance certificate is needed for the trust.

To request a certificate, complete Form TX19, ASKING FOR A CLEARANCE CERTIFICATE, and send it to the Assistant Director, Verification and Enforcement Division, at your tax services office. Do **not** include Form TX19 with a return. Send it only **after** you have received the notices of assessment for all the returns filed and paid

or secured all amounts owing. You can find the mailing address of your tax services office from our Web site at **[www.cra.gc.ca/contact](http://www.cra.gc.ca/contact)**.

If you need more information about clearance certificates, call **1-800-959-8281**. You can also see Information Circular 82-6, CLEARANCE CERTIFICATE.

## **Getting started**

This section covers the information you may need to prepare the return.

- Determine the deceased person's income from all sources. You can do this by:
  - checking previous year returns to get the names of employers and investment companies the deceased may have received income from in the past;
  - checking safety deposit boxes for additional sources of income and benefits;

- contacting payers such as employers, banks, trust companies, stock brokers, and pension plan managers;
- getting information slips from payers (for example, a T4, STATEMENT OF REMUNERATION PAID, from an employer, or a T5, STATEMENT OF INVESTMENT INCOME, from a bank or trust company); and
- contacting the nearest Income Security Programs Office of Social Development Canada if the deceased was receiving Canada Pension Plan benefits or was 65 years or older and in receipt of Old Age Security pension, and you do not have a T4A(P) slip or T4A(OAS) slip.

Even if you cannot get the slips, you still have to report the income from all sources on either the final or the optional returns. We explain optional returns in Chapter 3, beginning on page 76 [15]. You can also claim any related deductions as outlined in Chart 1 on page 125 [25]. If a slip is not available, ask the payer to give you a note that shows the income and deductions. Attach this note to the return. If you cannot get a note from the payer, estimate the income and deduction amounts. For example, you can use pay stubs to estimate employment income and the amounts deducted for Canada Pension Plan or

Quebec Pension Plan contributions, registered pension plan contributions, Employment Insurance premiums, union dues, and income tax. Attach a note to the return giving the amounts and the payer's name and address. If possible, also attach a photocopy of the pay stubs.

- Get the tax package for the province or territory where the deceased lived at the time of death. You will need a T1 GENERAL INCOME TAX AND BENEFIT RETURN to report commission, partnership, rental, or self-employment income, and capital gains, or to claim deductions for attendant care expenses, security options deductions, and non-capital and capital losses of other years.
- Get any other guides, information circulars, interpretation bulletins, and forms that you may need. See page 150 [28] for a list of all the forms and publications referred to in this guide.
- Prepare and file a final return and any optional returns. For information on how to prepare a final return, see Chapter 2, beginning on page 34 [8]. For information on optional returns, see Chapter 3, beginning on page 76 [15].



- You may have to file a T3 TRUST INCOME TAX AND INFORMATION RETURN, in addition to a final return. For example, some of the amounts an employer pays are income for the estate. Look for estate amounts in box 18 or 28 of the T4A slip. See Chart 2 on page 147 [27].
- When you have received the NOTICE OF ASSESSMENT for all required returns, you should get a clearance certificate. See the section called "Clearance certificate" on page 27 [this page].

## **Common questions and answers**

Here are some common questions and answers you may want to look at before you read this guide.

Q. Can I deduct funeral expenses, probate fees, or fees to administer the estate?

A. No. These are personal expenses and are not deductible.

- Q. Who reports a death benefit that an employer pays?
- A. A death benefit is income of the estate or beneficiary that receives it. Up to \$10,000 of the total of all death benefits paid is not taxable. For a death benefit received by the beneficiary, see line 130 in the GENERAL INCOME TAX AND BENEFIT GUIDE or the guide that came with the beneficiary's return. For a death benefit received by the estate, see the T4013, T3 TRUST GUIDE.
- Q. Who reports amounts an employer pays for vacation and unused sick leave?
- A. Vacation pay is income of the deceased person. Payment for unused sick leave is often income of the estate or beneficiary that receives it. In some cases, sick leave payments can be a death benefit. For details, see Interpretation Bulletin IT-508, DEATH BENEFITS.
- Q. On what return do I report Canada Pension Plan (CPP) or Quebec Pension Plan (QPP) benefits for the deceased?

- A. A CPP or QPP death benefit is shown in box 18 of Form T4A(P), STATEMENT OF CANADA PENSION PLAN BENEFITS. The recipient can choose to report this amount either on his or her return, or on a T3 TRUST INCOME TAX AND INFORMATION RETURN, for the estate. Do **not** report the amount on the deceased's return. This benefit is not eligible for the \$10,000 death benefit exemption. It is not like a death benefit that an employer pays. You have to report all other CPP or QPP benefits on the deceased's return.
- Q. If the deceased person was paying tax by instalments, do I have to continue making those instalment payments?
- A. No. The only instalments we require are those that were due before the date of death but not paid.
- Q. What do I do if the deceased person was receiving the Canada Child Tax Benefit (CCTB) which could include payments from related provincial or territorial child benefit and credit programs?
- A. Contact us and provide us with the date of death. If the deceased person was receiving CCTB payments for a child and the surviving spouse or common-law partner is the child's parent, the surviving

spouse or common-law partner should contact us. We will usually transfer the CCTB payments to that person.

- Q. Why do I have to return the deceased person's GST/HST credit?
- A. The amount of the GST/HST credit payment is based on the previous year's return. However, the payments are an advance on purchases for the current year. For this reason, you have to return GST/HST credit payments that were paid to the deceased after his or her death. If the deceased was single and the estate is entitled to the payment, another cheque payable to the estate will be issued.

## **Chapter 2 – Final return**

This chapter explains how to complete and file the final return.

On the final return, report all of the deceased's income from January 1 of the year of death, up to and including the date of death. Report income earned after the date of death on a T3 TRUST INCOME TAX AND INFORMATION RETURN. To find out what income to report on the

T3 return, see Chart 2 on page 147 [27]. For more information, see the T4013, T3 TRUST GUIDE.

### **Tax tip**

In addition to the final return, you can choose to file up to three optional returns for the year of death. Information about the deceased's income sources will help you determine if you can file any of these optional returns.

You do not have to file any of the optional returns. However, by filing one or more of the returns, you may reduce or eliminate tax that you would otherwise have to pay for the deceased.

You do not report the same income on both the final and an optional return. However, you can claim certain credits and deductions on more than one return. There may be a tax advantage if you file one or more of the optional returns in addition to the final return.

For more details, see "Chapter 3 – Optional returns," beginning on page 76 [15], and Chart 1 on page 125 [25].

## What date is the final return due?

Generally, the final return is due on or before the following dates:

<b>Period when death occurred</b>	<b>Due date for the return</b>
January 1 to October 31	April 30 of the following year
November 1 to December 31	Six months after the date of death

If the deceased or the deceased's spouse or common-law partner was carrying on a business in 2005 (unless the expenditures of the business are mainly in connection with a tax shelter), the following due dates apply:

<b>Period when death occurred</b>	<b>Due date for the return</b>
January 1 to December 15	June 15 of the following year
December 16 to December 31	Six months after the date of death

### **Tax tip**

**Previous year return** – A person may die after December 31, 2005, but on or before the filing due date for his or her 2005 return. If he

or she has not filed that return, the due date for filing the return and paying any balance owing is six months after the date of death.

The deceased's will or a court order may set up a **testamentary spousal or common-law partner trust**. When testamentary debts of the deceased or the estate are being handled through the trust, the due date for the final return is extended to 18 months after the date of death. We define **testamentary spousal or common-law partner trust** and **testamentary debts** in the Glossary, beginning on page 11 [4]. However, you have to pay any taxes owing on the final return by the due date shown in the section called "What is the due date for a balance owing?" on page 39 [9].

### **Note**

If a person dies in 2006, the legal representative may choose to file the final return at any time after the date of death and the returns will generally be processed at that time as a service to the estate. In these cases, the returns will generally be processed using tax legislation applicable to the 2005 tax year. The legal representative can then request a reassessment of the return in the following year (2007) to apply any tax changes introduced for the 2006 tax year.

## **What happens if you file the final return late?**

If you file the final return late and there is a balance owing, we will charge a late-filing penalty. We will also charge you interest on both the balance owing and any penalty. The penalty is 5% of any balance owing, plus 1% of the balance owing for each full month that the return is late, to a maximum of 12 months. The late-filing penalty may be higher if we charged a late-filing penalty on a return for any of the three previous years.

### **Tax tip**

Even if you cannot pay the full amount owing by the due date, you can avoid this penalty by filing the return on time.

We may cancel this penalty and interest if you file the return late because of circumstances beyond your control. If this happens, include a letter with the return explaining why you filed the return late. For more information, see Information Circular 92-2, GUIDELINES FOR THE CANCELLATION AND WAIVER OF INTEREST AND PENALTIES.



## What is the due date for a balance owing?

The due date for a balance owing on a final return depends on the date of death.

<b>Period when death occurred</b>	<b>Due date for the amount owing</b>
January 1 to October 31	April 30 of the following year
November 1 to December 31	Six months after the date of death

If you do not pay the amount in full, we will charge compound daily interest on the unpaid amount from the day after the due date to the date you pay the amount owing.

In some cases, you can delay paying part of the amount due. For instance, you can delay paying part of the amount owing from rights or things (see page 82 [16] ) and the deemed disposition of capital property (see page 113 [22] ).

## **How to complete the final return**

In this section, we cover the most common lines on a deceased person's return. For more information on these and other lines on a return, see the guide that came with the deceased's return. If the types of income you want to report, or the deductions or credits you want to claim, are not on the return that you have, get a General income tax and benefit package. You cannot use a T1S-C, CREDIT AND BENEFIT RETURN, to complete a return for a deceased person.

### **Identification**

In this area of the return:

- Write "The Estate of the Late" before the name of the deceased.
- Give your address as the return address.
- Ensure the province or territory of residence on December 31 is the one where the deceased was living at the date of death.
- Check the box that applies to the deceased's marital status at the time of death.

- Enter the date of death on the proper line.

If you use the personal label provided with the return, make sure the information on the label is correct. Attach the label to the return.

### **Goods and services tax/harmonized sales tax (GST/HST) credit**

Since there is no GST/HST credit based on the year of death, do not complete the GST/HST credit area when you file the final return.

### **Total income**

Report amounts that are paid regularly, even if the person did not receive them before he or she died. Some examples of these amounts are salary, interest, rent, royalties, and most annuities. These amounts usually accumulate in equal daily amounts for the time they are payable. For more information, see Interpretation Bulletin IT-210, INCOME OF DECEASED PERSONS – PERIODIC PAYMENTS AND INVESTMENT TAX CREDIT.

There are two types of amounts that do **not** accumulate in equal daily amounts:

- certain amounts receivable by the deceased, but not payable to the deceased on or before the date of death; and
- amounts from some annuity contracts that we consider to have been disposed of on death.

For more information about amounts receivable on or before the date of death, see the section called "1. Return for rights or things" on page 78 [16].

### **Amounts an employer pays to the deceased person's estate**

There may be amounts that an employer will pay to a deceased employee's estate. For these amounts, an employer will usually complete a T4 or T4A slip.

Some of the amounts an employer pays will be part of the deceased's employment income for the year of death. Report these amounts on the final return. The amounts are employment income for the year of death even if they are received in a year after the year of death. Box 14 of the T4 slip should include the following amounts:

- salary or wages (including overtime) from the end of the last pay period to the date of death;
- salary or wages (including overtime) for a pay period finished before the date of death, but paid after death; and
- payment for vacation leave earned but not taken.

The employer may change any of these amounts later because of an agreement or promotion. If the document that allows the change was signed **before** the date of death, report these additional amounts on the final return. However, if the document was signed **after** the date of death, the additional amounts are not taxable (see Chart 3 on page 149 [27] ).

Some of these amounts may be **rights or things**, and you may be able to report them on an optional return. For details, see the section called "1. Return for rights or things" on page 78 [16]. Some of the amounts an employer pays are income for the estate and should be reported on a T3 TRUST INCOME TAX AND INFORMATION RETURN. See Chart 2 on page 147 [27].

## **Lines 101 to 104 – Employment income**

Report all salary, wages, or commissions received from January 1 to the date of death. Also include amounts that accumulate from the start of the pay period in which the employee died to the date of death.

If the commissions are for a self-employed salesperson, see guide T4002, BUSINESS AND PROFESSIONAL INCOME, to determine how to report the commission income and claim expenses.

## **Line 113 – Old Age Security pension**

Report the amounts from box 18 of the deceased's T4A(OAS) slip. A payment received after the date of death for the month in which the individual died may be reported on the final return or on a rights or things return.

**Do not report** on line 113 the amount in box 21 of the T4A(OAS) slip. Report this amount on "Line 146 – Net federal supplements." You may be able to claim a deduction for this amount on "Line 250 – Other payments deduction."

## **Note**

If the deceased's net income before adjustments (line 234) is more than \$60,806, all or part of the OAS benefits may have to be repaid. For details, see line 235 in the GENERAL INCOME TAX AND BENEFIT GUIDE, or the SPECIAL INCOME TAX AND BENEFIT GUIDE.

## **Line 114 – CPP or QPP benefits**

Report the total Canada Pension Plan (CPP) or Quebec Pension Plan (QPP) benefits in box 20 of the deceased's T4A(P) slip, **minus** any amount in box 18. The amount in box 20 is the total of the amounts in boxes 14 to 18. A payment received after the date of death for the month in which the individual died may be reported on the final return or on a rights and things return.

**Do not report** a CPP or QPP death benefit shown in box 18 on the final return. The recipient can choose to include this amount either on his or her return, or on a T3 TRUST INCOME TAX AND INFORMATION RETURN for the estate. If the deceased received a lump-sum CPP or QPP benefit, or a CPP or QPP disability benefit, see line 114 in the GENERAL INCOME TAX AND BENEFIT GUIDE, or the SPECIAL INCOME TAX AND BENEFIT GUIDE.

## **Line 115 – Other pensions or superannuation**

Report any other pensions or superannuation the deceased received from January 1 to the date of death (box 16 on T4A slips and box 31 on T3 slips).

If the deceased received annuity or registered retirement income fund (RRIF) payments, including life income fund payments, for the period from January 1 to the date of death, report that income on the final return. If the deceased was 65 or older, report the RRIF income on line 115. Also report the RRIF income on line 115 if the deceased was under 65 but received the RRIF payments because his or her spouse or common-law partner died. In all other cases, report the RRIF income on line 130 of the return. For more information, see the section called "Income from a registered retirement income fund (RRIF)" on page 53 [11].

If there is a lump-sum amount shown in box 18 of the T4A slip or box 22 of the T3 slip, report it on line 130.



## **Line 119 – Employment Insurance benefits**

Report any Employment Insurance (EI) benefits the deceased received from January 1 to the date of death (box 14 of the T4E slip). If the deceased's net income before adjustments (line 234) is more than \$48,750, part of these benefits may have to be repaid. For details, see line 235 in the GENERAL INCOME TAX AND BENEFIT GUIDE, or the SPECIAL INCOME TAX AND BENEFIT GUIDE. If the deceased repaid any EI benefits to Social Development Canada, he or she may be entitled to a deduction. For details, see line 232 in the GENERAL INCOME TAX AND BENEFIT GUIDE.

## **Lines 120 and 121 – Investment income**

Report investment income received from January 1 to the date of death. This type of income includes dividends (line 120) and interest (line 121). Also include the following:

- amounts earned from January 1 to the date of death that have not been paid;

- amounts earned from term deposits, guaranteed investment certificates (GICs), and other similar investments from the last time these amounts were paid to the date of death;
- bond interest earned from the last time it was paid to the date of death, if the deceased did not report it in a previous year; and
- compound bond interest that accumulated to the date of death, if the deceased did not report it in a previous year.

You can report some types of investment income as rights or things. For details, see the section called "1. Return for rights or things" on page 78 [16]. Report interest that accumulates after the date of death on a T3 TRUST INCOME TAX AND INFORMATION RETURN.

### **Line 127 – Taxable capital gains**

For information about this type of income, see Chapter 4, beginning on page 94 [18].

## **Line 129 – RRSP income**

At the time of death, a person may have a registered retirement savings plan (RRSP). The RRSP may or may not have matured. Depending on the situation, the amount you include in the deceased's income can vary.

**Payments from a matured RRSP** – A **matured** RRSP is one that is paying retirement income, usually in monthly payments. Report the RRSP payments the deceased received from January 1 to the date of death on line 129.

If the surviving spouse or common-law partner is the beneficiary of the RRSP, as specified in the RRSP contract, he or she begins receiving the remaining annuity payments from the plan. The surviving spouse or common-law partner has to report the remaining payments as income on his or her return.

If the surviving spouse or common-law partner is the beneficiary of the estate, that person and the legal representative can jointly elect, in writing, to treat the amounts the RRSP paid to the estate as being paid to the spouse or common-law partner. Attach a copy of the

written election to the return of the surviving spouse or common-law partner. The election has to specify that this person is electing to become the annuitant of the RRSP.

If the amounts from the RRSP are paid to a beneficiary other than the deceased's spouse or common-law partner, see guide T4040, RRSPs AND OTHER REGISTERED PLANS FOR RETIREMENT.

**Payments from an unmaturred RRSP** – Generally, an **unmaturred** RRSP is one that does not yet pay retirement income.

Generally, we consider a deceased RRSP annuitant to have received, immediately before death, an amount equal to the fair market value (FMV) of all the property of the unmaturred plan at the time of death. The FMV of the property is shown in box 34 of the T4RSP slip issued to the deceased person. You have to include this amount in the deceased's income for the year of death.

If a T4RSP slip showing the FMV of the plan at the time of death is issued in the deceased's name, you may be able to reduce the amount you include in the deceased's income. For details, see Information

Sheet RC4177, DEATH OF AN RRSP ANNUITANT, and guide T4040, RRSPs AND OTHER REGISTERED PLANS FOR RETIREMENT.

If **all** of the property held in the RRSP is to be paid to the surviving spouse or common-law partner, **and** that payment is directly transferred to his or her RRSP, RRIF, or to an issuer to buy the surviving spouse or common-law partner an eligible annuity (as specified in the RRSP contract) **before** the end of the year following the year of death, a T4RSP slip will not be issued in the deceased's name. In this case, the surviving spouse or common-law partner has to report the payment on his or her return and claim a deduction equal to the amount transferred.

If the amounts from the RRSP are paid to a beneficiary other than the deceased's spouse or common-law partner, see guide T4040, RRSPs AND OTHER REGISTERED PLANS FOR RETIREMENT.

**Home Buyers' Plan (HBP)** – The deceased may have participated in the HBP. If so, the deceased would have made a withdrawal from his or her RRSP and may have been making repayments to the RRSP. In this case, include on line 129 the total of all amounts that remain to be repaid at the time of death. Any RRSP contributions that the

deceased made in the year of his or her death can be designated as a repayment.

However, you do not have to report these amounts when the legal representative and the surviving spouse or common-law partner jointly elect to have the surviving spouse or common-law partner continue to make the repayments. For more information, see guide RC4135, HOME BUYERS' PLAN (HBP).

**Lifelong Learning Plan (LLP)** – The deceased may have participated in the LLP. If so, the deceased would have made a withdrawal from his or her RRSP and may have been making repayments to the RRSP. Treatment of these amounts is the same as with the Home Buyer's Plan, and a similar election is available. For more information, see guide RC4112, LIFELONG LEARNING PLAN (LLP).

### **Line 130 – Other income**

Use this line to report taxable income not reported anywhere else on the return. Identify the type of income you are reporting in the space to the left of line 130. We discuss some of the types of income you

report on this line below. For more information, see line 130 in the guide that came with the deceased's return.

**Death benefits (other than Canada or Quebec Pension Plan death benefits)** – A death benefit is an amount received after a person's death for that person's employment service. It is shown in box 28 of the T4A slip or box 35 of the T3 slip. A death benefit is not reported on the final return for the deceased; rather, it is income of the estate or the beneficiary that receives it. Up to \$10,000 of the total of all death benefits paid may not be taxable. For more information, see line 130 in the guide that came with the deceased's return or Interpretation Bulletin IT-508, DEATH BENEFITS.

**Income from a registered retirement income fund (RRIF)** – When a person dies, he or she may have a RRIF. Depending on the situation, the amount you include in the deceased's income can vary.

If the deceased received payments from a RRIF for the period from January 1 to the date of death, report that income on the final return. If the deceased was 65 or older, or if the deceased was under 65 and received the RRIF payments due to the death of his or her spouse or common-law partner, see "Line 115 – Other pensions or

superannuation" on page 46 [10]. In all other cases, report the RRIF income on line 130.

If the annuitant made a written election in the RRIF contract or in the will to have the RRIF payments continue to his or her spouse or common-law partner after death, that person becomes the annuitant and will start to get the RRIF payments as the new annuitant.

If the annuitant did not elect in writing to have the RRIF payments continue to his or her spouse or common-law partner, that person can still become the annuitant of the RRIF after the annuitant's death. This is the case if the legal representative consents to the deceased's spouse or common-law partner becoming the annuitant, and the RRIF carrier agrees to continue the payments under the deceased annuitant's RRIF to the surviving spouse or common-law partner.

A T4RIF slip will not be issued in the deceased person's name for the fair market value (FMV) of the property at the time of death if all of the three following conditions exist:

- all of the property held by the RRIF is to be paid to the surviving spouse or common-law partner (as specified in the RRIF contract);



- the **entire** eligible amount of the designated benefit is directly transferred to the surviving spouse's or common-law partner's RRIF, RRSP, or to an issuer to buy an eligible annuity for the surviving spouse or common-law partner; and
- all the RRIF property is distributed **before** the end of the year following the year of death.

In this case, the surviving spouse or common-law partner will receive a T4RIF slip and has to report the payment on his or her return and is eligible to claim a deduction equal to the amount directly transferred.

For all other situations, we consider that the deceased received, immediately before death, an amount equal to the FMV of the plan at the time of death. The FMV of the property is shown in box 18 of the T4RIF slip issued in the deceased's name. Include this amount in the deceased's income for the year of death. However, you may be able to reduce the amount you include in income. For details, see Information Sheet RC4178, DEATH OF A RRIF ANNUITANT, and guide T4040, RRSPs AND OTHER REGISTERED PLANS FOR RETIREMENT.

## **Lines 135 to 143 – Self-employment income**

If the deceased had self-employment income, report the gross and net income or loss on the appropriate line. For more information, see lines 135 to 143 in the GENERAL INCOME TAX AND BENEFIT GUIDE.

**Reserves in the year of death** – Sometimes, when a property is sold, some of the proceeds are not payable until after the year of sale. Similarly, a self-employed person may have amounts that he or she will receive in a later year for work done this year. An example is for work in progress.

Usually, a person can deduct from income the part of the proceeds that are not payable until a later year. This is called a reserve.

In most cases, you cannot deduct a reserve in the year of death. However, there may be a transfer to a spouse or common-law partner, or spousal or common-law partner trust of the right to receive the proceeds of disposition or the income owing. When this happens, the legal representative and the beneficiary can choose to claim a reserve on the deceased's return. To do this, complete Form T2069, ELECTION

IN RESPECT OF AMOUNTS NOT DEDUCTIBLE AS RESERVES FOR THE YEAR OF DEATH, and attach a copy to the deceased's return.

This choice is available only if the deceased was a resident of Canada right before death. For a transfer to a spouse or common-law partner, that person also has to have been a resident of Canada right before the deceased's death. For a transfer to a spousal or common-law partner trust, the trust has to be resident in Canada right after the proceeds or income become locked in for the trust. We define **locked in** in the Glossary on page 16 [5].

The spouse or common-law partner, or spousal or common-law partner trust includes in income an amount equal to the reserve that is on Form T2069. This income has to be included on the return for the first tax year after death. You have to attach a copy of Form T2069 to that return.

### **Lines 144 to 146 – Other types of income**

Report the deceased's workers' compensation benefits, social assistance payments, and net federal supplements on the appropriate line. For details, see the guide that came with the deceased's return.

## **Net income**

### **Line 208 – RRSP deduction**

Use this line to deduct registered retirement savings plan (RRSP) contributions the deceased made before his or her death. These include contributions to both the deceased's RRSPs and the deceased's spouse or common-law partner's RRSPs, but do not include repayments under a Home Buyers' Plan or Lifelong Learning Plan described on pages 51 and 52 [11].

After a person dies, no one can contribute to the deceased person's RRSPs. However, the deceased individual's legal representative can make contributions to the surviving spouse's or common-law partner's RRSPs in the year of death or during the first 60 days after the end of that year.

The amount you can deduct on the deceased's return for 2005 is usually based on the deceased's 2005 RRSP deduction limit. You can also deduct amounts for contributions the deceased made for certain income the deceased received and transferred to an RRSP.

For more information, see guide T4040, RRSPs AND OTHER REGISTERED PLANS FOR RETIREMENT. For information on other deductions the deceased may be entitled to (line 207 and lines 209 to 235), see the GENERAL INCOME TAX AND BENEFIT GUIDE, or the guide that came with the deceased's return.

## **Taxable income**

### **Line 253 – Net capital losses of other years**

For information about these losses, see Chapter 5, beginning on page 114 [22].

For information on other deductions the deceased may be entitled to (lines 248 to 252 and lines 254 to 256), see the GENERAL INCOME TAX AND BENEFIT GUIDE, or the guide that came with the deceased's return.

## **Federal non-refundable tax credits**

### **Personal amounts (lines 300 to 306)**

If the deceased was a resident of Canada from January 1 to the date of death, claim the full personal amounts.

If the deceased was a resident of Canada for **part** of the time from January 1 to the date of death, you may have to prorate the personal amounts. To do so, multiply the personal amount by the number of days the deceased lived in Canada and divide the result by the number of days in the year. The result is the amount you can claim on the deceased's return. If the deceased immigrated to Canada in the year of death, see pamphlet T4055, **NEWCOMERS TO CANADA**. If the deceased emigrated from Canada in the year of death, see guide T4056, **EMIGRANTS AND INCOME TAX**.

The credits we refer to in this section are federal credits, which are claimed on Schedule 1, **FEDERAL TAX**. If the deceased was a resident of a province or territory other than Quebec, use the appropriate form included in the forms book to calculate his or her provincial or territorial tax credits. For more information, see the provincial or territorial pages in the deceased's forms book.

### **Line 300 – Basic personal amount**

Claim the full basic personal amount for the year.

### **Line 301 – Age amount**

If the deceased was 65 or older, and his or her net income is less than \$56,146, you can claim all or part of the age amount. The amount you can claim will depend on the deceased's net income for the year. For more information, see line 301 in the guide that came with the deceased's return.

### **Line 303 – Spouse or common-law partner amount**

If the net income of the spouse or common-law partner is less than \$7,611, you may be able to claim all or part of this amount. Use the net income of the spouse or common-law partner for the whole year, not just up to the deceased's date of death. For more information, see line 303 in the guide that came with the deceased's return.

### **Line 305 – Amount for an eligible dependant**

If the deceased is entitled to claim this amount, use the dependant's net income for the whole year, not just up to the deceased's date of death. For more information, see line 305 in the guide that came with

the deceased's return, and complete the chart for line 305 on the FEDERAL WORKSHEET included in the forms book.

### **Line 306 – Amount for infirm dependants age 18 or older**

If the deceased is entitled to claim this amount, use the dependant's net income for the whole year, not just up to the deceased's date of death. For more information, see line 306 in the GENERAL INCOME TAX AND BENEFIT GUIDE.

### **Line 314 – Pension income amount**

The deceased may have received eligible pension or annuity income before the date of death. If this is the case, you may be able to claim the pension income amount of up to \$1,000. For more information, see line 314 in the guide that came with the deceased's return, and complete the chart for line 314 on the FEDERAL WORKSHEET included in the forms book.

### **Line 315 – Caregiver amount**

You may be able to claim this amount if the deceased cared for certain dependants. See line 315 in the GENERAL INCOME TAX AND



BENEFIT GUIDE, and complete the chart for line 315 on the FEDERAL WORKSHEET included in the forms book. For more information, see guide RC4064, INFORMATION CONCERNING PEOPLE WITH DISABILITIES.

### **Line 316 – Disability amount**

You can claim a disability amount if the deceased met certain conditions. For more information about these conditions, see line 316 in the guide that came with the deceased's return.

#### **Tax Tip**

If the deceased or anyone else paid for certain eligible expenses, such as an attendant or for care in a nursing home or other establishment because of the deceased's impairment, it may be more beneficial to claim the amounts paid as medical expenses instead of the disability amount. In some circumstances, both amounts can be claimed.

For more information, see the section called "Did you, your spouse or common-law partner, or your dependant receive attendant care or care in an establishment?" in guide RC4064, INFORMATION CONCERNING PEOPLE WITH DISABILITIES, and Interpretation Bulletin

## IT-519, MEDICAL EXPENSE AND DISABILITY TAX CREDITS AND ATTENDANT CARE EXPENSE DEDUCTION.

### **Line 318 – Disability amount transferred from a dependant**

If the deceased had a dependant who is entitled to claim a disability amount, you may be able to claim all or a part of the dependant's disability amount. For details, see line 318 in the GENERAL INCOME TAX AND BENEFIT GUIDE, and complete the chart for line 318 on the FEDERAL WORKSHEET included in the forms book.

### **Line 319 – Interest paid on your student loans**

You can claim an amount for most of the interest paid after 1997 on loans made to the deceased under the CANADA STUDENT LOANS ACT, the CANADA STUDENT FINANCIAL ASSISTANCE ACT, or similar provincial or territorial government laws for post-secondary education. Enter the total amount shown on the receipts. Attach the receipts to the return. For more information, see the GENERAL INCOME TAX AND BENEFIT GUIDE or pamphlet P105, STUDENTS AND INCOME TAX.

## **Line 326 – Amounts transferred from your spouse or common-law partner**

Sometimes there are amounts that a spouse or common-law partner does not need to reduce his or her federal income tax to zero. In these situations, you can transfer the unneeded amounts to the deceased's final return.

Also, the deceased may have amounts that are not needed to reduce his or her federal tax to zero. If this is the case, you can transfer the unneeded amounts to the return of the spouse or common-law partner. However, before you can do this, you have to reduce the federal tax to zero on the final return you file for the deceased.

For either situation, you can transfer the following amounts:

- the age amount (line 301), if the spouse or common-law partner was 65 or older;
- the pension income amount (line 314);
- the disability amount (line 316); and

- 2005 tuition and education amounts (line 323) as designated by the student (maximum \$5,000).

If you do transfer any of these amounts, complete Schedule 2, FEDERAL AMOUNTS TRANSFERRED FROM YOUR SPOUSE OR COMMON-LAW PARTNER, and attach it to the final return for the deceased.

**Line 330 – Medical expenses for self, spouse or common-law partner, and your dependent children born in 1988 or later**

You can claim medical expenses that are more than the **lower** of:

- \$1,844; or
- 3% of the deceased's total net income from line 236 of **all** returns for the year of death.

The expenses can be for any 24-month period that includes the date of death, as long as no one has claimed them on any other return.

Attach the receipts for medical expenses to the return.

## **Note**

You may be able to claim a credit of up to \$750 if you have an amount on line 215, "Disability supports deduction," or line 332, the allowable portion of medical expenses. Use the net income from the deceased's final return, and the spouse's or common-law partner's net income for the entire year, to calculate this credit. For details, see line 452, "Refundable medical expense supplement," in the GENERAL INCOME TAX AND BENEFIT GUIDE, or in the SPECIAL INCOME TAX AND BENEFIT GUIDE.

For more information on medical expenses, see line 330 in the GENERAL INCOME TAX AND BENEFIT GUIDE, the SPECIAL INCOME TAX AND BENEFIT GUIDE, or the T1S-A INCOME TAX AND BENEFIT GUIDE.

## **Line 349 – Donations and gifts**

Use this line to claim charitable donations the deceased, or his or her spouse or common-law partner, made before the date of death. If you are using a T1 General return, complete Schedule 9, DONATIONS AND GIFTS. If you are using a T1 Special or T1S-A return, calculate the allowable amount on Schedule 1.

Support the claims for donations and gifts with official receipts that the registered charity or other qualified donee has issued, showing either the deceased's name, or the deceased's spouse's or common-law partner's name.

You can also claim charitable donations made through the will, as long as you support the donations. The type of support you have to provide depends on when the registered charity or other qualified donee will receive the gift:

- For gifts that will be received right away, provide an official receipt.
- For gifts that will be received later, provide a copy of each of the following:
  - the will;
  - a letter from the estate to the charitable organization that will receive the gift, advising of the gift and its value; and
  - a letter from the charitable organization acknowledging the gift and stating that it will accept the gift.

You may be able to claim a charitable donations tax credit for a donation of a direct distribution of proceeds to a qualified donee from an RRSP (including a group RRSP), RRIF, or life insurance policy (including a group life insurance policy) as a result of a beneficiary designation. The above does not apply if the qualified donee is the policy holder or an assignee of the deceased person's interest in the policy.

The deceased may have donated amounts in the five years before the year of death. As long as the deceased did not claim the amounts before, you can claim them in the year of death. Where part of a donation has already been claimed, attach a note to the return giving the amounts and the year or years the donations were made. Also, attach any receipts that were not attached to previous returns.

### **Note**

Charitable donations cannot be carried forward from a T1 return to a T3 return.

The most you can claim is the **lower** of:

- under proposed legislation, the **eligible amount of the gift(s)** (defined in the Glossary on page 15 [4] ) donated in the year of death (including gifts by will), plus the unclaimed portion of any gifts made in the five years before the year of death; or
- 100% of the deceased's net income (line 236) on the return.

Under proposed legislation, for a gift of property made to a qualified donee effective 6:00 p.m. EST, on December 5, 2003, special rules may apply to limit the fair market value of the property gifted, and thereby limit the eligible amount of the gift that can be used in computing the donation tax credit amount. When the rules apply, the fair market value of the donated property will be deemed to be the lesser of the property's:

- fair market value otherwise determined; and
- cost (or its adjusted cost base if it is capital property), at the time the gift was made.



The limitation on the eligible amount of a gift **will** apply where:

- the donated property was acquired under a gifting arrangement that is a tax shelter, or
- the property is being gifted otherwise than as a consequence of the taxpayer's death, and the property was acquired less than three years, or in some cases, less than 10 years, before making the gift.

The limitation on the eligible amount of a gift will **not** apply to gifts of:

- inventory;
- real property or an immovable property located in Canada;
- certified cultural property
- ecologically sensitive land (including a covenant, an easement, or in the case of land in Quebec, a real servitude);
- a share, debt obligation, or right listed on a prescribed stock exchange;

- a share of the capital stock of a mutual fund corporation;
- a unit of a mutual fund trust;
- an interest in a related segregated fund trust;
- a prescribed debt obligation;

- shares of controlled corporations in certain circumstances; or
- property acquired by a corporation in certain circumstances where the property was acquired under a tax deferred rollover.

There are also special anti-avoidance rules that may apply where a taxpayer has attempted to avoid the application of the limitation rules discussed on page 71 [above]. For more information, see pamphlet P113, GIFTS AND INCOME TAX.

If the property was acquired through a tax shelter that is a gifting arrangement, the eligible amount will be reported in box 13 of Form T5003, STATEMENT OF TAX SHELTER INFORMATION.

On the return(s) for the year of death, you may not be able to claim all of the gifts the deceased made in the year of death. In that case, you can ask us to adjust the deceased's return for the preceding year to include the unused part of these gifts.

Sometimes, a capital property may be gifted. At the time the deceased gives the property, its fair market value may be more than its adjusted cost base. We define **fair market value** and **adjusted cost base** in the Glossary, beginning on pages 11 and 16 [4].

Under proposed legislation, when the fair market value is more than the adjusted cost base, you may designate an amount that is **less** than the FMV to be the proceeds of disposition. This may allow you to reduce the capital gain otherwise calculated. If you choose to designate an amount, you may choose the value of the donated property. You can choose an amount that is **not greater than** the FMV and **not less** than the greater of:

- any **advantage** (defined in the Glossary on page 11 [4] ) in respect of the gift; and
- the adjusted cost base (ACB) of the property (or, where the property was depreciable property, the lesser of its ACB and the

undepreciated capital cost of the class of the property), at the time you made the donation.

Treat the amount you choose as the proceeds of disposition when you calculate any capital gain. Also use this amount to determine the **eligible amount** of the gift which you use to calculate the tax credit.

For more information about charitable donations and the special rules that may apply, see the guide that came with the deceased's return, and pamphlet P113, GIFTS AND INCOME TAX.

### **Refund or Balance owing**

You will find the details you need about tax and credits in the section called "Refund or Balance owing" in the guide that came with the deceased's return.

### **Minimum tax**

Minimum tax limits the tax advantage a person can receive in a year from certain incentives. Minimum tax does not apply to a person for the year of death. However, the deceased may have paid this tax in one or more of the seven years before the year of death. If this is the

case, you may be able to deduct from the tax owing for the year of death, part or all of the minimum tax the deceased paid in those years. To do this, complete Part 8 of Form T691, ALTERNATIVE MINIMUM TAX. Include Form T691 with the return.

### **Provincial and territorial tax**

Use Form 428 included in the forms book to calculate the provincial or territorial tax for the province or territory where the deceased was living at the time of death. To calculate the tax for the province of Quebec, you must use a Quebec provincial return.

### **Signing the return**

As the legal representative for the deceased, you have to sign the return in the area provided on the last page of the return. Sign your name and indicate your title (for example, executor or administrator).

## Chapter 3 – Optional returns

Optional returns are returns on which you report some of the income that you would otherwise report on the final return. By filing one or more optional returns, you may reduce or eliminate tax for the deceased. This is possible because you can claim certain amounts more than once, split them between returns, or claim them against specific kinds of income.

Chart 1 on page 125 [25] summarizes the information in this chapter. You may also want to get Interpretation Bulletin IT-326, RETURNS OF DECEASED PERSONS AS "ANOTHER PERSON."

You can choose to file up to three optional returns. The optional returns are for income from:

- rights or things;
- a business as a partner or proprietor; or
- a testamentary trust.

## **Note**

Do not confuse the optional return for income from a testamentary trust with the T3 TRUST INCOME TAX AND INFORMATION RETURN, described in the section called "What are your responsibilities as the legal representative?" on page 20 [5]. After someone dies, a will or a court order may create a trust, and the trustee, executor, or administrator may be required to file a T3 return. Also, an individual may be required to file a T3 return to report income earned after the date of death or for CPP or QPP death benefits. For more information, see Chart 2 on page 147 [27] and the T4013, T3 TRUST GUIDE.

## **Signing the optional return**

You have to sign the optional return in the area provided on the last page of the return. Sign your name and indicate your title (for example, executor or administrator).

## What are the three optional returns?

### 1. Return for rights or things

Rights or things are amounts that had not been paid to the deceased at the time of his or her death and that, had the person not died, would have been included in his or her income when received. There are rights or things from employment and other sources.

You can file a return for rights or things to report the value of the rights or things at the time of death. However, if you file a return for rights or things, you have to report **all** rights or things on that return, except those transferred to beneficiaries. You **cannot** split rights or things between the final return and the return for rights or things.

If you **transfer** rights or things to a beneficiary, you have to do so within the time limit for filing a return for rights or things. The beneficiary must report the income from the transferred rights or things on his or her return.



## **Employment rights or things**

Employment rights or things are salary, commissions, and vacation pay, as long as **both** of these conditions are met:

- The employer owed them to the deceased on the date of death.
- They are for a pay period that ended before the date of death.

## **Other rights or things**

Other rights or things include the following:

- Old Age Security benefits that were due and payable before the date of death;
- uncashed matured bond coupons;
- bond interest earned to a payment date before death, but not paid and not reported in previous years;
- unpaid dividends declared before the date of death;
- supplies on hand, inventory, and accounts receivable if the deceased was a farmer or fisherman and used the cash method;

- livestock that is not part of the basic herd and harvested farm crops, if the deceased was using the cash method; and
- work in progress, if the deceased was a sole proprietor and a professional [an accountant, a dentist, a lawyer (in Quebec an advocate or notary), a medical doctor, a veterinarian, or a chiropractor] who had elected to exclude work in progress when calculating his or her total income.

For more information about rights or things, see Interpretation Bulletins IT-212, INCOME OF DECEASED PERSONS – RIGHTS OR THINGS, and its Special Release, IT-234, INCOME OF DECEASED PERSONS – FARM CROPS, and IT-427, LIVESTOCK OF FARMERS.

Some items that are **not** rights or things include:

- amounts that accumulate periodically, such as interest from a bank account;
- bond interest accumulated between the last interest payment date before the person died and the date of death;
- registered retirement savings plan income;

- amounts withdrawn from the Net Income Stabilization Account (NISA) Fund 2;
- eligible capital property and capital property;
- Canadian or foreign resource properties;
- land in the deceased's business inventory; and
- income from an income-averaging annuity contract.

**How to file** – If you decide to file a return for rights or things, you will need to:

1. Obtain a T1 GENERAL INCOME TAX AND BENEFIT RETURN.
2. Write "70(2)" in the top right corner of page 1 of the return.
3. Follow the instructions for completing a return in this guide and the GENERAL INCOME TAX AND BENEFIT GUIDE.

You have to file this return by the **later** of:

- 90 days after we mail the Notice of Assessment or Notice of Reassessment for the final return; or

- one year after the date of death.

The due date for a balance owing on a rights or things return depends on the date of death. See the section called "What is the due date for a balance owing?" on page 39 [9].

### **Election to delay payment of income tax**

In some cases, you can delay paying part of the amount owing from rights or things. Remember that we charge interest on any unpaid amount from the day after the due date to the date you pay the amount in full.

If you want to delay payment, you will have to give us security for the amount owing. You also have to complete Form T2075, ELECTION TO DEFER PAYMENT OF INCOME TAX, UNDER SUBSECTION 159(5) OF THE INCOME TAX ACT BY A DECEASED TAXPAYER'S LEGAL REPRESENTATIVE OR TRUSTEE. For more information, contact the Collections Division of your tax services office.

## **How to cancel a return for rights or things**

You may file a return for rights or things before the due date, but later want to cancel it. We will cancel the return if you send us a note asking us to do this. You have to send the note by the filing due date for the rights or things return.

### **2. Return for a partner or proprietor**

A deceased person may have been a partner in, or the sole proprietor of, a business. The business may have a fiscal year that does not start or end on the same dates as the calendar year. If the person died after the end of the business's fiscal period but before the end of the calendar year in which the fiscal period ended, you can file an optional return for the deceased.

On this return, report the income for the time from the end of the fiscal period to the date of death. If you choose not to file this optional return, report all business income on the final return.

## **Example**

A person who had a business died on May 28, 2005. The business has a March 31 fiscal year end. You have two choices when you report the person's 2005 income:

- One choice is to include the business income from April 1, 2004, to May 28, 2005, on the final return.
- The other choice is to file a return for a partner or proprietor in addition to the final return. On the final return, include business income from April 1, 2004, to March 31, 2005. On the return for a partner or proprietor, report the business income from April 1, 2005, to May 28, 2005.

**How to file** – If you decide to file a return for a partner or proprietor, you will need to:

1. Obtain a T1 GENERAL INCOME TAX AND BENEFIT RETURN.
2. Write "150(4)" in the top right corner of page 1 of the return.
3. Follow the instructions for completing a return in this guide and the GENERAL INCOME TAX AND BENEFIT GUIDE.

You have to file this optional return when the final return is due. The due date for a balance owing depends on the date of death. See the sections called "What date is the final return due?" on page 36 [8] and "What is the due date for a balance owing?" on page 39 [9].

For more information, see Interpretation Bulletin IT-278, DEATH OF A PARTNER OR OF A RETIRED PARTNER.

### **3. Return for income from a testamentary trust**

You can file an optional return for a deceased person who received income from a testamentary trust. The trust may have a fiscal period (taxation year) that does not start or end on the same dates as the calendar year. If the person died after the end of the fiscal period of the trust, but before the end of the calendar year in which the fiscal period ended, you can file an optional return for the deceased.

On this return, report the income for the time from the end of the fiscal period to the date of death. If you choose not to file this optional return, report all income from the trust on the final return.

## **Example**

A husband gets income from a testamentary trust. The trust was formed as a result of his wife's death. The fiscal year of the trust is from April 1 to March 31. The husband died on June 11, 2005. You have two choices when you report the husband's income from the trust:

- One choice is to include the trust income from April 1, 2004, to June 11, 2005, on the final return.
- The other choice is to file a return for income from the trust in addition to the final return. On the final return, include the trust income from April 1, 2004, to March 31, 2005. On the return for income from the trust, report the trust income from April 1, 2005, to June 11, 2005.

**How to file** – If you decide to file a return for income from a testamentary trust, you will need to:

1. Obtain a T1 GENERAL INCOME TAX AND BENEFIT RETURN.
2. Write "104(23)(d)" in the top right corner of page 1 of the return.



3. Follow the instructions for completing a return in this guide and the **GENERAL INCOME TAX AND BENEFIT GUIDE**.

You have to file this optional return and pay any amount owing by the later of:

- April 30, 2006, (or June 15, 2006, if the deceased was a self-employed individual, although any balance owing is still due on April 30); or
- six months after the date of death.

### **Amounts for optional returns**

There are three groups of amounts you can claim on the optional returns. They are amounts you can:

- claim in full on each return;
- split between returns; and
- claim only against certain income.

## **Amounts you can claim in full on each return**

On each optional return and on the final return, you can claim:

- the basic personal amount (line 300);
- the age amount (line 301);
- the spouse or common-law partner amount (line 303);
- the amount for an eligible dependant (line 305);
- the amount for infirm dependants age 18 or older (line 306); and
- the caregiver amount (line 315).

## **Amounts you can split between returns**

There are certain amounts you cannot claim in full on the final return and optional returns. However, you can split these amounts between the returns.

When you split an amount, the **total** of the claims cannot be more than what would have been allowed if you were only filing the final return. Amounts you can split are:

- disability amount for the deceased (line 316);
- disability amount transferred from a dependant (line 318);
- interest paid on certain student loans (line 319);
- tuition and education amounts for the deceased (line 323);
- tuition and education amounts you transfer from a child (line 324);
- charitable donations that are not more than the net income you report on that return (line 349);
- cultural, ecological, and Crown gifts (line 342 of Schedule 9); and
- medical expenses (line 330), which you can split any way you want between the final return and any optional returns. However, you have to reduce the total expenses by the lower of \$1,844 or 3% of the **total** net income you report on all returns.

### **Example**

In the year a woman died, her total medical expenses were \$9,000. You decide to file a rights or things return in addition to the final return. The total of her net income on the two returns is \$40,000.

Of this, \$30,000 is on the final return and \$10,000 is on the rights or things return.

You decide to split the \$9,000 of medical expenses and claim two-thirds on the final return and one-third on the rights or things return.

$2/3$ of \$9,000	=	\$6,000 (to claim on final return)
$1/3$ of \$9,000	=	\$3,000 (to claim on rights or things return)

The medical expense reduction is the lower of \$1,844 or 3% of the total net income. In this example, the reduction is \$1,200 ( $\$40,000 \times 3\%$ ), which is lower than \$1,844.

The medical expense reduction must also be split between the two returns in the same proportion as the medical expenses.

$2/3$ of \$1,200	=	\$800
$1/3$ of \$1,200	=	\$400

Deductions for medical expenses on final return		\$ 6,000
<hr/>		
	–	\$ 800
		<hr/>
	=	\$ 5,200
		<hr/>
Deductions for medical expenses on rights or things return		\$ 3,000
<hr/>		
	–	\$ 400
		<hr/>
	=	\$ 2,600
		<hr/>

The deductions for medical expenses are \$5,200 on the final return and \$2,600 on the rights or things return.

### **Amounts you can claim only against certain income**

There are some amounts you can only claim on those returns on which you report the related income. The amounts are:

- employee home relocation loan deduction (line 248);
- security options deductions (stock options and shares) (line 249);

- vow of perpetual poverty deduction (line 256);
- Canada Pension Plan (CPP) or Quebec Pension Plan (QPP) contributions (line 308 or line 310);
- Employment Insurance premiums (line 312);
- pension income amount (line 314); and
- social benefits repayment (line 422).

### **Example**

A deceased person's total employment income in the year of death was \$30,000, and the CPP amount was \$800. Of the \$30,000, \$1,000 is a right or thing. Of the \$800, \$27 is the CPP contribution the person paid on the \$1,000. You decide to file a return for rights or things.

On the final return, you report income of \$29,000 and claim a CPP amount of \$773. On the return for rights or things, you include income of \$1,000 and claim a CPP amount of \$27.

There are certain amounts you **cannot** normally claim on an optional return. They include:

- registered pension plan deduction (line 207);
- registered retirement savings plan deduction (line 208);
- annual union, professional, or like dues (line 212);
- child care expenses (line 214);
- disability supports deduction (line 215);
- allowable business investment losses (line 217);
- moving expenses (line 219);
- support payments made (line 220);
- carrying charges and interest expenses (line 221);
- exploration and development expenses (line 224);
- losses from other years (lines 251 – 253);
- capital gains deduction (line 254);
- northern residents deduction (line 255); and

- amounts you transfer from a spouse or common-law partner (line 326).

You may be able to claim these amounts on the final return.

For more information on other credits, see Chart 1 on page 125 [25].

## **Chapter 4 – Deemed disposition of property**

In this chapter, we discuss the tax treatment of capital property the deceased owned at the date of death. We deal with capital property in general, as well as the particular treatment of depreciable and farm property. We discuss only property acquired after December 31, 1971.

There are special rules for property that a deceased person owned before 1972. For details about these rules and for information about other property such as eligible capital property, resource property, or an inventory of land, contact us.

We define some of the terms in this chapter in the Glossary, beginning on page 11 [4].



## General information

When a person dies, we consider that the person has disposed of all capital property right before death. We call this a deemed disposition.

Also, right before death, we consider that the person has received the deemed proceeds of disposition (throughout this chapter we will refer to this as "deemed proceeds"). Even though there was not an actual sale, there can be a capital gain or (except for depreciable property or personal-use property) a capital loss.

For depreciable property, in addition to a capital gain, there can also be a recapture of capital cost allowance. Also, for depreciable property, instead of a capital loss there may be a terminal loss. We explain these terms below.

### What is a capital gain?

When the proceeds or deemed proceeds of disposition of a capital property are **more** than its adjusted cost base, the result is a capital gain. In most cases, one-half of the capital gain is the taxable capital gain.

Use Schedule 3, CAPITAL GAINS (OR LOSSES) IN 2005, to calculate the taxable capital gain to report on the final return.

### **What is a capital gains deduction?**

This is a deduction you can claim for the deceased person against eligible taxable capital gains from the disposition or deemed disposition of certain capital property.

You may be able to claim the capital gains deduction on taxable capital gains the deceased had in 2005 from:

- dispositions or deemed dispositions of qualified farm property;
- dispositions or deemed dispositions of qualified small business corporation shares; and
- a reserve brought into income from either of the above.

For more information, see guide T4037, CAPITAL GAINS.

## **What is a capital loss?**

When the proceeds or deemed proceeds of disposition of a capital property are **less** than its adjusted cost base, the result is a capital loss. One-half of the capital loss is the allowable capital loss. You cannot have a capital loss on the disposition of depreciable property.

For more information on claiming a capital loss, see the section called "Net capital losses in the year of death" on page 115 [22].

## **Recaptures and terminal losses**

For depreciable property, when the proceeds or deemed proceeds of disposition are **more** than the undepreciated capital cost, you will usually have a recapture of capital cost allowance (see the definition of capital cost allowance in the Glossary on page 13 [4] ). Include the recapture in income on the deceased's final return.

For depreciable property, when the proceeds or deemed proceeds of disposition are **less** than the undepreciated capital cost, the result is a terminal loss. Deduct the terminal loss on the deceased's final return.

## **Note**

A terminal loss is not allowed in respect of depreciable property that was personal-use property of the deceased.

For more information about a recapture of capital cost allowance or a terminal loss, see Interpretation Bulletin IT-478, CAPITAL COST ALLOWANCE – RECAPTURE AND TERMINAL LOSS.

## **Capital property other than depreciable property**

In this section, we explain how to determine the deemed proceeds for capital property, other than depreciable property. If there is a transfer of depreciable property, read the section called "Depreciable property" on page 101 [20]. If there is a transfer of farm property to a child, read the section called "Farm property transferred to a child" on page 106 [21].

## **Deceased's deemed proceeds – Transfer to spouse or common-law partner, or testamentary spousal or common-law partner trust**

There may be a transfer of capital property (including farmland) from a deceased person who was a resident of Canada immediately before

death to a spouse or common-law partner, or a testamentary spousal or common-law partner trust.

For a transfer to a spouse or common-law partner, the deemed proceeds are the same as the property's adjusted cost base right before death, if **both** of these conditions are met:

- The spouse or common-law partner was a resident of Canada right before the person's death.
- The property becomes locked in for the spouse or common-law partner no later than 36 months after the date of death. If you need more time to meet this condition, you can make a written request to the Director at your tax services office.

For a transfer to a testamentary spousal or common-law partner trust, the deemed proceeds are the same as the property's adjusted cost base right before death, if **both** of these conditions are met:

- The testamentary spousal or common-law partner trust is resident in Canada right after the property becomes locked in for this trust.
- The property becomes locked in for the testamentary spousal or common-law partner trust no later than 36 months after the date

of death. If you need more time to meet this condition, you can make a written request to the Director at your tax services office.

In most cases, the deceased will not have a capital gain or loss. This is because the transfer postpones any gain or loss to the date the beneficiary disposes of the property.

### **Example**

A person's will transfers non-depreciable capital property to the spouse or common-law partner, and both of the conditions for transfer to a spouse or common-law partner are met. Right before death, the adjusted cost base of the property was \$35,000. Therefore, the deemed proceeds are \$35,000. You would not report any capital gain or loss on the deceased's final return.

### **Tax tip**

You can choose not to have the deemed proceeds equal the adjusted cost base. If you make this choice, the deemed proceeds are equal to the property's fair market value right before death. You have to make this choice when you file the final return for the deceased.

You may want to do this to use a capital gains deduction (see page 96 [19] ) or a net capital loss on the deceased's final return. It may be best to report a capital gain or loss on the final return instead of deferring it to the spouse or common-law partner, or spousal or common-law partner trust.

### **Deceased's deemed proceeds – All other transfers**

For all other transfers, the deemed proceeds are equal to the property's fair market value right before death.

### **Depreciable property**

In this section, we explain how to determine the deemed proceeds for depreciable property. If there is a transfer of farm property to a child, see the section "Farm property transferred to a child" on page 106 [21].

## **Deceased's deemed proceeds – Transfer to spouse or common-law partner, or testamentary spousal or common-law partner trust**

There may be a transfer of depreciable property (including depreciable farm property) to a spouse or common-law partner, or a testamentary spousal or common-law partner trust. For such transfers, you may be able to use a special amount for the deemed proceeds. When you use this special amount, the deceased will not have a capital gain, recapture of capital cost allowance, or a terminal loss. The transfer postpones any gain, recapture, or terminal loss to the date the beneficiary disposes of the property.

The conditions required to use this special amount are the same as those listed for a transfer of capital property to a spouse or common-law partner, or testamentary spousal or common-law partner trust.

The special amount (deemed proceeds) is the **lower** of:

- the capital cost of the property for the deceased; or
- the result of the following calculation:



Capital cost of the property	×	Undepreciated capital cost of all of the deceased's property in the same class
Capital cost of all the property in the same class that had not been disposed of previously		

**Example**

A woman had two trucks that were used in her business. The woman died in July 2005, and the will transferred one truck to her husband. Both of the conditions stated above for transfer to a spouse or common-law partner are met.

You have the following details:

Undepreciated capital cost of the two trucks right before death	\$33,500
Capital cost of transferred truck	\$22,500
Capital cost of the two trucks	\$50,000

The deceased's deemed proceeds on the transferred truck are the lower of:

- \$22,500; or
- $\frac{\$22,500}{\$50,000} \times \$33,500 = \$15,075.$

The deemed proceeds are \$15,075.

When there is more than one property in the same class, you can choose the order in which the deceased is deemed to have disposed of the properties. When you calculate the special amount, adjust the undepreciated capital cost and the total capital cost of the properties in the class to exclude previous deemed dispositions.

### **Note**

When determining the special amount, you will need to recalculate the capital cost of property in the class when:

- the property was acquired in a non-arm's length transaction (see the Glossary, beginning on page 11 [4] );

- the property was previously used for other than gaining or producing income; or
- the part of a property used for gaining or producing income changed.

For more information, contact us.

### **Tax tip**

You can choose not to use the special amount for the deemed proceeds. If you make this choice, the deemed proceeds are equal to the property's fair market value right before death. You have to make this choice when you file the final return for the deceased.

You may want to do this to use a capital gains deduction (see page 96 [19] ) on the final return. It may be best to report a capital gain, recapture, or terminal loss on the final return instead of deferring it to the spouse or common-law partner, or spousal or common-law partner trust.

## **Deceased's deemed proceeds – All other transfers**

For all other transfers, the deemed proceeds are equal to the property's fair market value right before death.

## **Farm property transferred to a child**

In this section, we explain how to determine the deemed proceeds when there is a transfer of farm property to a child. For this kind of transfer, you may be able to use a special amount for the deemed proceeds.

In this chapter, when we refer to the transfer of farm property, the terms **farm property** and **child** have the following meanings:

**Farm property** includes land and depreciable property of a prescribed class used for farming.

A **child** includes:

- the deceased's natural or adopted child;
- the child of the deceased's spouse or common-law partner;

- the deceased's grandchild or great-grandchild;
- a person who, while under 19, was in the deceased's custody and control and was wholly dependent on the deceased for support; and
- the spouse or common-law partner of any of the above.

## **Conditions**

To use the special amount for the deemed proceeds, **all four** of the following conditions have to be met:

- The farm property is in Canada.
- The child was a resident of Canada right before the deceased's death.
- The farm property becomes locked in for the child no later than 36 months after the date of death. If you need more time to meet this condition, you can make a written request to the Director at your tax services office.
- The deceased, the deceased's spouse or common-law partner, or any child of the deceased was using the farm property mainly for

farming, on a regular and ongoing basis, before the deceased's death.

The rollover provisions available for farm property are extended to land and depreciable property used principally in a woodlot farming business. They apply where the deceased, the deceased's spouse or common-law partner, or any of the deceased's children was engaged in the woodlot operation as required by a **prescribed forest management plan** in respect of the woodlot. These provisions apply to transfers of property that occur after December 10, 2001. For more information, see IT-373, WOODLOTS, or contact us.

You may also be able to use a special amount for the deemed proceeds when a share of the capital stock of a family farm corporation or an interest in a family farm partnership is transferred to a child. For details, see Interpretation Bulletin IT-349, INTERGENERATIONAL TRANSFERS OF FARM PROPERTY ON DEATH.

### **Deceased's deemed proceeds – Transfer of farmland to a child**

If all four of the above conditions are met, you can choose to have the deemed proceeds equal the adjusted cost base of the land right

before death. Therefore, the deceased will not have a capital gain or loss.

### **Tax tip**

You can choose not to have the deemed proceeds equal the adjusted cost base. If you make this choice, you can transfer the land for any amount between its adjusted cost base and fair market value right before death. You have to make this choice when you file the final return for the deceased.

You may want to do this to use the capital gains deduction (see page 96 [19] ) or a net capital loss on the final return. It may be best to report a capital gain or loss on the final return instead of deferring it to a child.

### **Deceased's deemed proceeds – Transfer of depreciable farm property to a child**

If there is a transfer of depreciable farm property, you may be able to use a special amount for the deemed proceeds. To use this special amount, the four conditions we listed earlier in this section have to be met.

In most cases, when you use this special amount, the deceased will not have a capital gain, a recapture of capital cost allowance, or a terminal loss. This is because the transfer postpones any gain, recapture, or terminal loss to the date the beneficiary disposes of the property.

The special amount (deemed proceeds) is the **lower** of:

- the capital cost of the property for the deceased; or
- the result of the following calculation:

$$\frac{\text{Capital cost of the property}}{\text{Capital cost of the property in the same class that had not been disposed of previously}} \times \text{Undepreciated capital cost of all of the deceased's property in the same class}$$

### **Example**

A man who owned three tractors died in May 2005. His will transferred one tractor to his son. The four conditions for transfer of farm property to a child are met. You have the following details:



Undepreciated capital cost of the three tractors right before death	\$ 90,000
Capital cost of transferred tractor	\$ 45,000
Capital cost of all three tractors	\$100,000

The deceased's deemed proceeds on the transferred tractor are the lower of:

- \$ 45,000; or
- $\frac{\$ 45,000}{\$100,000} \times \$90,000 = \$40,500$ .

The deemed proceeds are \$40,500.

When there is more than one property in the same class, you can choose the order in which the deceased is deemed to have disposed of the properties. When you calculate the special amount, adjust the undepreciated capital cost and the total capital cost of the properties in the class to exclude previous deemed dispositions.

## **Note**

When you determine the special amount, you will need to recalculate the capital cost of any property in the class when:

- the property was acquired in a non-arm's length transaction;
- the property was previously used for other than gaining or producing income; or
- the part of a property used for gaining or producing income changed.

For more information, contact us.

## **Tax tip**

You can choose not to use the special amount for the deemed proceeds. If you make this choice, you can transfer the property for any amount between the special amount and its fair market value right before death.

You have to make this choice when you file the final return for the deceased.

You may want to do this to use the capital gains deduction (see page 96 [19] ) on the final return. It may be best to report a capital gain, recapture, or terminal loss on the final return instead of deferring it to a child.

For more information, see Interpretation Bulletin IT-349, INTERGENERATIONAL TRANSFERS OF FARM PROPERTY ON DEATH, or contact us.

### **Election to delay payment of income tax**

In some cases, you can delay paying part of the income tax due. For instance, you can delay paying part of the amount owing from the deemed disposition of capital property. Remember that we charge interest on any unpaid amount, from the day after the due date to the date you pay the amount in full.

If you want to delay payment, you will have to give us security for the amount owing. You also have to complete Form T2075, ELECTION TO DEFER PAYMENT OF INCOME TAX, UNDER SUBSECTION 159(5) OF THE INCOME TAX ACT BY A DECEASED TAXPAYER'S LEGAL REPRESENTATIVE OR TRUSTEE. For more information, contact the Collections Division of

your tax services office. In most cases, you have to pay any amount owing on a return when the return is due.

## Chapter 5 – Net capital losses

In this chapter, we discuss how to apply a net capital loss that occurred in the year of death. We also explain how to apply net capital losses from earlier years to the final return and the return for the year before the year of death.

We define some of the terms in this chapter in the Glossary, beginning on page 11 [4].

### What is a net capital loss?

Generally, when allowable capital losses are more than taxable capital gains, the difference is a **net capital loss**. An allowable capital loss is 1/2 of a capital loss. Generally, a taxable capital gain is 1/2 of a capital gain. The rate used to determine the taxable part of a capital gain and the allowable part of a capital loss is called an **inclusion rate**.

## **Net capital losses in the year of death**

To apply a net capital loss that happened in the year of death, you can use either Method A or Method B.

**Method A** – You can carry back a 2005 net capital loss to reduce any taxable capital gains in the three years before the year of death. If you are applying it against taxable capital gains realized in 2002, 2003, or 2004, you do not need to make any adjustment because the inclusion rate is the same in all three years. The loss you carry back cannot be more than the taxable capital gains in those years. To ask for a loss carryback, complete Form T1A, REQUEST FOR LOSS CARRYBACK, and send it to us.

After you carry back the loss, there may be an amount left. You may be able to use some of the resulting amount to reduce other income on the final return, the return for the year before the year of death, or both returns. However, before you do this, you have to calculate the amount you can use.

From the net capital loss you have left, subtract any capital gains deductions the deceased has claimed to date. Use any loss left to

reduce other income for the year of death, the year before the year of death, or for both years.

If you claim the remaining net capital loss in the year of death, you should claim the amount at line 127 of the final return.

### **Note**

Do not use a capital loss claimed against other income at line 127 in the calculation of net income for the purposes of calculating other amounts such as social benefit repayments, provincial or territorial tax credits, and those non-refundable tax credits requiring the use of net income.

**Method B** – You can choose not to carry back the net capital loss to reduce taxable capital gains from earlier years. You may prefer to reduce other income on the final return, the return for the year before the year of death, or both returns. However, before you do this, you have to calculate the amount you can use.

From the net capital loss, subtract any capital gains deductions the deceased has claimed to date. Use any loss remaining to reduce other

income for the year of death, the year before the year of death, or for both years.

If you claim the remaining net capital loss in the year of death, you should claim the amount at line 127 of the final return.

**Example**

A man died on June 20, 2005. You have the following details about his tax matters:

Net capital loss in 2005	\$11,000
Taxable capital gains in 2003	\$ 4,000
Taxable capital gains in 2002	\$ 2,000
Total capital gains deductions claimed to date	\$ 4,000

He did not claim any capital gains deductions for 2002 or 2003.

You can use Method A or Method B.

## **Method A**

If you choose method A, you can use the net capital losses to reduce his 2003 taxable capital gains to zero ( $\$11,000 - \$4,000$ ). Then, you can use the remaining balance of  $\$7,000$  to reduce his 2002 taxable capital gain to zero ( $\$7,000 - \$2,000$ ).

After you subtract his capital gains deductions ( $\$5,000 - \$4,000$ ), you still have  $\$1,000$  left to reduce the man's other income for 2005 or 2004 or for both years.

## **Method B**

If you choose to use this method, you will first deduct his capital gains deductions of  $\$4,000$  from his net capital loss in 2005 of  $\$11,000$ . You can now use the remaining  $\$7,000$  to reduce the man's other income for 2005 or 2004, or for both years.

## **Note**

If you claim the remaining net capital loss in the year before the year of death, you will need to complete Form T1-ADJ, T1 ADJUSTMENT REQUEST, or send us a signed letter providing the details of your request. Send your Form T1-ADJ or letter **separately**



from the deceased's final return. Applying a 2005 net capital loss to a previous year may reduce any capital gains deductions the deceased claimed in that year or a following year.

## **Net capital losses before the year of death**

The deceased may have had a net capital loss before the year of death but never applied it. If so, you can apply the loss against taxable capital gains on the final return. If there is still an amount left, you may be able to use it to reduce other income on the final return, the return for the year before the year of death, or both returns. If you decide to claim this loss on the final return, report it at line 253.

The inclusion rate used to determine the taxable part of a capital gain and the allowable part of a capital loss has changed over the years. If the inclusion rate of 1/2 for 2005 is different from the inclusion rate in effect the year the loss occurred, you will need to adjust the loss before applying it to the taxable capital gain in 2005.

**To apply a previous year loss to 2005**, you will need to adjust the loss as follows:

- For a net capital loss from **1987 or earlier**, there is no adjustment required.
- For a net capital loss from **1988 or 1989**, multiply the loss by **3/4**.
- For a net capital loss from **1990 to 1999**, multiply the loss by **2/3**.
- For a net capital loss from **2000**, multiply the loss by  **$[1 \div (2 \times IR)]$** , where **IR** is the inclusion rate for 2000. This rate is from Line 16 of Part 4 of the deceased's Schedule 3 for 2000, or from the deceased's NOTICE OF ASSESSMENT or latest NOTICE OF REASSESSMENT for 2000.
- For a net capital loss from **2001 or later**, there is no adjustment required.

When you make these calculations, you get the **adjusted net capital loss**.

Now you can reduce taxable capital gains in the year of death. To do this, use the **lower** of:

- the adjusted net capital loss; or
- the taxable capital gains in the year of death.

After you reduce the taxable capital gains, some of the loss may be left. You may be able to use this amount to reduce other income for the year of death, the year before the year of death, or for both years. However, before you do this, you may have to calculate the amount you can use.

If you had to adjust the loss before applying it to the 2005 taxable capital gain as described above, you will now have to readjust the loss that remains as follows:

- For a net capital loss from **1987 or earlier**, there is no adjustment required.
- Multiply any adjusted net capital losses from **1988 or 1989** by **4/3**.
- Multiply any adjusted net capital losses from **1990 to 1999** by **3/2**.
- Multiply any adjusted net capital losses from **2000** by **2 × IR**, where **IR** is the inclusion rate for 2000.
- For a net capital loss from **2001 or later**, there is no adjustment required.

The result is your **readjusted balance**. From this balance, subtract all capital gains deductions claimed to date, including those on the final return. If there is an amount left, you can use it to reduce other income for the year of death, the year before the year of death, or for both years.

### Example

A woman died in August of 2005. You have these details about her tax matters:

Net capital loss in 1996, never applied	\$ 18,000
Taxable capital gain in 2005	\$ 6,000
Capital gains deductions claimed to date	\$ 4,000

You decide to use the 1996 loss to reduce the 2005 taxable capital gain and to use any amount left to reduce other income for 2005.

You have to adjust the 1996 net capital loss before you can apply it. Multiply it by **2/3** to get the adjusted net capital loss:

$$\$18,000 \times 2/3 = \$12,000$$

To reduce the 2005 taxable capital gain, use the lower of:

- \$12,000 (adjusted net capital loss); or
- \$6,000 (2005 taxable capital gain).

After you use \$6,000 of the loss to reduce the gain to zero, you still have \$6,000 ( $\$12,000 - \$6,000$ ) left. You can use this amount to reduce the deceased's other income for 2005. To determine the amount to use, you have to readjust the \$6,000. Because the loss occurred in 1996, multiply the amount left by **3/2** to get the readjusted balance:

$$\$6,000 \times 3/2 = \$9,000$$

From the readjusted balance, subtract all capital gains deductions claimed to date:

$$\$9,000 - \$4,000 = \$5,000$$

You can use \$5,000 to reduce the deceased's other income for 2005. If you decide not to use the total of this balance in 2005, you can use the amount that is left to reduce other income for 2004.

## **Note**

If you claim a capital gains deduction for the year of death or the year before the year of death, subtract it from the balance of net capital losses you have available to reduce other income in those years. For more details about capital gains and losses, as well as the capital gains deduction, see guide T4037, CAPITAL GAINS.

## **Disposition of estate property by the legal representative**

As the legal representative, you may continue looking after the deceased's estate through a trust. If you dispose of capital property, the result may be a net capital loss. If you dispose of depreciable property, the result may be a terminal loss.

Usually, you would claim these losses on the trust's return. However, in the trust's first taxation year, you can choose to claim all or part of these losses on the deceased's final return. Any net capital loss realized after the date of death can only be applied to the year of death. For more information, contact us.

# Appendix

## Chart 1 – Returns for the year of death

### Section of T1 General Income Tax and Benefit Return

#### Total income

Lines 101 to 146

#### Final return

- all income received before death
- all income from deemed dispositions
- all periodic payments (for example, rent, salary, and accrued interest)

#### Return for rights or things 70(2)

- salary, commissions, and vacation pay owed and paid after death (Note 1)
- retroactive salary adjustments owed and paid after death
- CPP and EI arrears

- accounts receivable, supplies, and inventory (Note 2)
- uncashed matured bond coupons
- bond interest earned but not received before death
- dividends declared before the date of death, but not received
- crops, livestock (Note 3)
- work in progress (Note 4)

#### **Return for a partner or proprietor 150(4)**

- income from the business from the end of the business' fiscal period to the date of death

#### **Return for income from a testamentary trust 104(23)(d)**

- income from the trust from the end of the trust's fiscal period to the date of death



## **Section of T1 General Income Tax and Benefit Return**

### **Deductions for Calculating Net income**

#### **Lines 207 to 232**

##### **Final return**

- all deductions from lines 207 to 232 that are allowable

##### **Return for rights or things 70(2)**

- generally, none of those deductions can be claimed

##### **Return for a partner or proprietor 150(4)**

same as for return for rights or things 70(2)

##### **Return for income from a testamentary trust 104(23)(d)**

same as for return for rights or things 70(2)

#### **Line 235**

##### **Final return**

- social benefits repayments

**Return for rights or things 70(2)**

Note 5

**Return for a partner or proprietor 150(4)**

not applicable

**Return for income from a testamentary trust 104(23)(d)**

not applicable

**Split deductions (Note 6)**

**Section of T1 General Income Tax and Benefit Return**

**Deductions for Calculating Taxable income**

**Line 248**

**Final return**

- home relocation loans

**Return for rights or things 70(2)**

Note 7

**Return for a partner or proprietor 150(4)**

not applicable

**Return for income from a testamentary trust 104(23)(d)**

not applicable

**Line 249**

**Final return**

- security options deductions

**Return for rights or things 70(2)**

Note 7

**Return for a partner or proprietor 150(4)**

not applicable

**Return for income from a testamentary trust 104(23)(d)**

not applicable

## **Line 250**

### **Final return**

- other payments

### **Return for rights or things 70(2)**

not applicable

### **Return for a partner or proprietor 150(4)**

not applicable

### **Return for income from a testamentary trust 104(23)(d)**

not applicable

## **Lines 251-255**

### **Final return**

- losses or other deductions

### **Return for rights or things 70(2)**

no

**Return for a partner or proprietor 150(4)**

no

**Return for income from a testamentary trust 104(23)(d)**

no

**Line 256**

**Final return**

- vow of perpetual poverty

**Return for rights or things 70(2)**

yes

**Return for a partner or proprietor 150(4)**

not applicable

**Return for income from a testamentary trust 104(23)(d)**

not applicable

## **Section of T1 General Income Tax and Benefit Return**

### **Federal Non-refundable tax credits (Note 13)**

#### **Lines 300-306**

##### **Final return**

- all personal amounts

##### **Return for rights or things 70(2)**

yes – in full

##### **Return for a partner or proprietor 150(4)**

yes – in full

##### **Return for income from a testamentary trust 104(23)(d)**

yes – in full

#### **Line 315**

##### **Final return**

- caregiver amount

**Return for rights or things 70(2)**

yes – in full

**Return for a partner or proprietor 150(4)**

yes – in full

**Return for income from a testamentary trust 104(23)(d)**

yes – in full

**Split amounts (Note 6)**

**Line 308**

**Final return**

- CPP or QPP contributions

**Return for rights or things 70(2)**

Note 7

**Return for a partner or proprietor 150(4)**

not applicable

**Return for income from a testamentary trust 104(23)(d)**

not applicable

**Line 310**

**Final return**

- CPP or QPP contributions on self-employed income

**Return for rights or things 70(2)**

not applicable

**Return for a partner or proprietor 150(4)**

yes

**Return for income from a testamentary trust 104(23)(d)**

not applicable

**Line 312**

**Final return**

- EI premiums



**Return for rights or things 70(2)**

Note 7

**Return for a partner or proprietor 150(4)**

not applicable

**Return for income from a testamentary trust 104(23)(d)**

not applicable

**Line 314**

**Final return**

- pension income amount

**Return for rights or things 70(2)**

Note 8

**Return for a partner or proprietor 150(4)**

not applicable

**Return for income from a testamentary trust 104(23)(d)**

Note 8

**Line 316**

**Final return**

- disability amount

**Return for rights or things 70(2)**

yes

**Return for a partner or proprietor 150(4)**

yes

**Return for income from a testamentary trust 104(23)(d)**

yes

**Line 318**

**Final return**

- disability amount transferred from a dependant

**Return for rights or things 70(2)**

yes

**Return for a partner or proprietor 150(4)**

yes

**Return for income from a testamentary trust 104(23)(d)**

yes

**Line 319**

**Final return**

- interest on student loans

**Return for rights or things 70(2)**

yes

**Return for a partner or proprietor 150(4)**

yes

**Return for income from a testamentary trust 104(23)(d)**

yes

**Lines 323-324**

**Final return**

- tuition and education

**Return for rights or things 70(2)**

yes

**Return for a partner or proprietor 150(4)**

yes

**Return for income from a testamentary trust 104(23)(d)**

yes

**Line 326**

**Final return**

- amounts transferred from spouse or common-law partner

**Return for rights or things 70(2)**

no

**Return for a partner or proprietor 150(4)**

no

**Return for income from a testamentary trust 104(23)(d)**

no

**Line 330**

**Final return**

- medical expenses

**Return for rights or things 70(2)**

Note 9

**Return for a partner or proprietor 150(4)**

Note 9

**Return for income from a testamentary trust 104(23)(d)**

Note 9

**Line 340**

**Final return**

- charitable donations

**Return for rights or things 70(2)**

Note 10

**Return for a partner or proprietor 150(4)**

Note 10

**Return for income from a testamentary trust 104(23)(d)**

Note 10

**Line 342**

**Final return**

- cultural and ecological gifts

**Return for rights or things 70(2)**

yes

**Return for a partner or proprietor 150(4)**

yes

**Return for income from a testamentary trust 104(23)(d)**

yes

## **Section of T1 General Income Tax and Benefit Return**

**Refund or Balance owing**

**Line 412**

**Final return**

- investment tax credit

**Return for rights or things 70(2)**

no

**Return for a partner or proprietor 150(4)**

no

**Return for income from a testamentary trust 104(23)(d)**

no

**Line 422**

**Final return**

- social benefits repayment

**Return for rights or things 70(2)**

Note 5

**Return for a partner or proprietor 150(4)**

not applicable

**Return for income from a testamentary trust 104(23)(d)**

not applicable



## **Line 425**

### **Final return**

- dividend tax credits

### **Return for rights or things 70(2)**

Note 11

### **Return for a partner or proprietor 150(4)**

not applicable

### **Return for income from a testamentary trust 104(23)(d)**

Note 11

## **Line 427**

### **Final return**

- minimum tax carry-over

### **Return for rights or things 70(2)**

no

**Return for a partner or proprietor 150(4)**

no

**Return for income from a testamentary trust 104(23)(d)**

no

**Line 452**

**Final return**

- refundable medical expense supplement (Note 12)

**Return for rights or things 70(2)**

no

**Return for a partner or proprietor 150(4)**

no

**Return for income from a testamentary trust 104(23)(d)**

no

## Notes

1. Salary, commissions, and vacation pay are rights or things if both of these conditions are met:
  - the employer owed them to the deceased on the date of death; and
  - they are for a pay period that ended before the date of death.
2. Accounts receivable, supplies on hand, and inventory are rights or things if the deceased's business used the cash method.
3. This includes harvested farm crops and livestock that is not part of the basic herd. For more information, see Interpretation Bulletins IT-234, INCOME OF DECEASED PERSONS – FARM CROPS, and IT-427, LIVESTOCK OF FARMERS.
4. "**Work in progress**" is a right or thing if the deceased was a sole proprietor and a professional [accountant, dentist, lawyer (in Quebec an advocate or notary), medical doctor, veterinarian, or chiropractor] who had elected to exclude work in progress when calculating his or her total income. For more information about

rights or things, see Interpretation Bulletin IT-212, INCOME OF DECEASED PERSONS – RIGHTS OR THINGS, and its Special Release.

5. This amount can be claimed if OAS or EI benefits have been reported on this return.
6. Claims split between returns cannot be more than the total that could be allowed if you were only filing the final return.
7. This amount can be claimed if related employment income has been reported on this return.
8. This amount can be claimed if pension or annuity income has been reported on line 115 or line 129 of this return.
9. The medical expenses can be split between the returns. Allowable medical expenses have to be reduced by the lesser of \$1,844 or 3% of the total net income reported on **all** the returns.
10. The amount that can be claimed is the **lesser** of the eligible amounts of charitable donations or 100% of the net income reported on this return. Also, the total charitable donations

claimed on **all** the returns cannot exceed the eligible amount of charitable donations.

11. This amount can be claimed if dividend income has been reported on this return.
12. Use the deceased's net income from the final return and the spouse's or common-law partner's net income for the entire year to calculate this credit.
13. If the deceased was a resident of a province or territory other than Quebec, he or she may now also be able to claim provincial or territorial tax credits. See the provincial or territorial pages in the deceased's forms book.

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## **Chart 2 – Income reported on the T3 Trust Income Tax and Information Return**

Report the following amounts on line 19 of the T3 TRUST INCOME TAX AND INFORMATION RETURN, for the year in which you receive the income. If the income is received in a year after the year of death, report it on the T3 return for that subsequent year.

<b>Type of income</b>	<b>Information slip</b>
1. Severance pay received because of death. As this is a death benefit, up to \$10,000 may be non-taxable.	T4A, Box 28
2. Future adjustments to severance pay regardless of when the collective agreement was signed.	T4A, Box 28
3. Refund of pension contributions payable because of death.	T4A, Box 18
4. Guaranteed minimum pension payment (this is not a death benefit).	T4A, Box 18
5. Deferred profit-sharing plan payment.	T4A, Box 18
6. CPP or QPP death benefit, if not reported by the recipient.	T4A(P), Box 18

### Chart 3 – Non-taxable amounts

Do not report the following amounts on a T1 final return for a deceased person or a T3 return for a trust:

1. Retroactive adjustments to the following employment income when a collective agreement or other authorizing instrument has been signed **after** the date of death:
    - salary or wages (including overtime) from the end of the last pay period to the date of death;
    - salary or wages (including overtime) for a pay period finished before the date of death, but paid after death; and
    - payment for vacation leave earned but not taken.
  2. Group term insurance such as the federal government's supplementary death benefit.
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# References

The following publications are available on our Web site at [www.cra.gc.ca](http://www.cra.gc.ca). or by calling **1-800-959-2221**.

## Forms

T1A	Request for Loss Carryback
T1090	Death of a RRIF Annuitant – Designated Benefit
T1136	Old Age Security Return of Income
T2019	Death of an RRSP Annuitant – Refund of Premiums
T2075	Election to Defer Payment of Income Tax, Under Subsection 159(5) of the Income Tax Act by a Deceased Taxpayer's Legal Representative or Trustee
TX19	Asking for a Clearance Certificate



## **Guides**

P113	Gifts and Income Tax
RC4060	Farming Income and the CAIS Program
RC4064	Information Concerning People With Disabilities
RC4112	Lifelong Learning Plan (LLP)
RC4135	Home Buyers' Plan (HBP)
RC4408	Farming Income and the CAIS Program Harmonized Guide
T4002	Business and Professional Income
T4003	Farming Income
T4013	T3 Trust Guide
T4037	Capital Gains
T4040	RRSPs and Other Registered Plans for Retirement
T4055	Newcomers to Canada
T4056	Emigrants and Income Tax

## **Information circulars**

- 82-6 Clearance Certificate
- 92-2 Guidelines for the Cancellation and Waiver of Interest and Penalties

## **Interpretation bulletins**

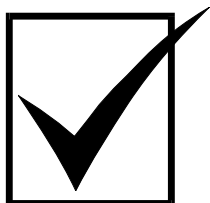
- IT-210 Income of Deceased Persons – Periodic Payments and Investment Tax Credit
- IT-212 Income of Deceased Persons – Rights or Things, and its Special Release
- IT-234 Income of Deceased Persons – Farm Crops
- IT-244 Gifts by Individuals of Life Insurance Policies as Charitable Donations
- IT-278 Death of a Partner or of a Retired Partner
- IT-305 Testamentary Spouse Trusts
- IT-326 Returns of Deceased Persons as "Another Person"

- IT-349 Intergenerational Transfers of Farm Property on Death
- IT-419 Meaning of Arm's Length
- IT-427 Livestock of Farmers
- IT-456 Capital Property – Some Adjustments to Cost Base
- IT-478 Capital Cost Allowance – Recapture and Terminal Loss
- IT-508 Death Benefits
- IT-519 Medical Expense and Disability Tax Credits and Attendant Care Expense Deduction

### **Information sheets**

- RC4111 What to Do Following a Death
- RC4177 Death of an RRSP Annuitant
- RC4178 Death of a RRIF Annuitant

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