



THE NAVIGATOR

TAX TREATMENT OF IN-KIND ASSET TRANSFERS

Will the transfer trigger capital gains or losses?

Depending on whom you are planning to transfer your assets in-kind, the property may be transferred at fair market value or at cost. Transfers that trigger a capital gain or loss are generally said to have transferred at fair market value. Transfers that do not trigger a capital gain or loss are said to have transferred at cost. Appendix I provides a summary of the tax treatment of in-kind asset transfers discussed in this article.

Please note that the following article assumes that the transferee does not own an identical security (otherwise the weighted average cost rules may apply) and that the assets in question are securities (not farm property or other types of assets that may be subject to specific tax rules). Any reference to a spouse in this article includes a common-law partner, including a same-sex partner.

This article outlines several strategies, not all of which will apply to your particular financial circumstances. The information is not intended to provide legal or tax advice. To ensure that your own circumstances have been properly considered and that action is taken based on the latest information available, you should obtain professional advice from a qualified tax advisor before acting on any of the information in this article.

TRANSFERS MADE TO ANOTHER INDIVIDUAL

In many cases, you may want to transfer your assets in-kind to another individual. You may want to give securities to a spouse, a child, or someone that is not related to you such as a friend. The following looks at some common transfers you might make and the tax implications of such transfers.

TRANSFER MADE TO A SPOUSE

AT THE TIME OF THE TRANSFER

Transfers between you and your spouse are generally not taxable for income tax purposes. Your spouse will receive the property at your adjusted cost base (ACB).

You and your spouse, however, have the option of electing to report the transfer

at fair market value. If the assets are in a capital gain position and the election is made, you will need to report the capital gain on your income tax return. The ACB of the property for your spouse will be the fair market value of the assets on the date of the transfer.

If the securities you are transferring are in a loss position, then you should be aware of the superficial loss rules.



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Transfers between you and your spouse are generally not taxable for income tax purposes. Your spouse will receive the property at your adjusted cost base (ACB).

Where you transfer a security in a loss position to your spouse, and your spouse holds the property on the 30th day after the transfer, the superficial loss rules will prohibit you from claiming the capital loss. The loss will be denied and the loss is added to your spouse's ACB of the assets. This may present a planning opportunity if your spouse holds other assets in a gain position. Ask your RBC advisor for the article titled "Transferring Capital Losses to a Spouse" for more details.

AFTER THE TRANSFER

When your spouse earns investment income (loss) and capital gains (losses) from the assets you transferred to them, the income or loss will generally attribute back to you. This is the case even if you elect to report the transfer at fair market value.

A way for you to avoid attribution is to sell the assets to your spouse for fair market value. Your spouse must pay fair market value consideration for the assets. Please contact your RBC advisor to discuss other strategies that may reduce or eliminate income attribution.

TRANSFER MADE TO A MINOR CHILD/IN-TRUST ACCOUNT FOR MINOR

Transfers to a minor include transfers to your minor child, minor grandchild, minor niece or nephew and other minor non-arm's length individuals or an in-trust account where any of these individuals are named beneficiaries. For income tax purposes, a minor is an individual who is under 18 years of age throughout the taxation year.

AT THE TIME OF THE TRANSFER

The transfer of securities to a minor is a taxable transaction. You report the disposition of the assets at fair market

value and the capital gain or loss on your income tax return. The ACB of the securities for the minor or trust is the fair market value of the assets on the date of transfer.

AFTER THE TRANSFER

The income the minor earns on the assets you gift to them, such as interest and dividends, is attributed back to you. Capital gains or losses are not generally attributed back to you. However, if you are the settlor and the sole trustee of an in-trust account and/or the transfer you made to the in-trust account is revocable then the capital gains earned on the assets may also be attributed back to you. Ask your RBC advisor for the article titled "Taxation of In-Trust Accounts" for more details.

TRANSFER MADE TO NON-ARM'S LENGTH ADULT INDIVIDUALS

Non-arm's length adult individuals include adult family members that are not your spouse, such as adult children, parents, brothers, sisters, brothers-in-law, sisters-in-law, nieces and nephews.

AT THE TIME OF THE TRANSFER

When you transfer the securities, you dispose of your securities at fair market value. You report the capital gain or loss on your income tax return. The ACB of the securities transferred is equal to the fair market value of the assets on the date of transfer.

AFTER THE TRANSFER

Future investment income and capital gains or losses generated on the securities are taxable to the recipient if the transfer was an outright gift. This is also the case if you loaned the securities to an adult family member and charged interest at least equal to

Arm's length individuals generally include individuals who are not related to you and who act independently from you.

the Canada Revenue Agency (CRA) prescribed interest rate that is in effect when the loan is made.

The investment income (interest and dividends), but not capital gains and losses may be attributed back to you if you make a no-interest loan or a loan at a rate less than the CRA prescribed rate to a non-arm's length individual and one of the main purposes of the loan is to reduce your own taxes.

TRANSFER MADE TO ARM'S LENGTH INDIVIDUALS

Arm's length individuals generally include individuals who are not related to you and who act independently from you.

AT THE TIME OF THE TRANSFER

The transfer of assets is a taxable transaction; you dispose of your assets to the arm's length person at fair market value. You report the capital gain or loss realized on the disposition on your income tax return. The ACB of the transferred assets is the fair market value of the assets on the date of transfer.

AFTER THE TRANSFER

Income attribution does not apply. The recipient of the assets will pay taxes on the future income and capital gains

they earn on the transferred assets.

TRANSFERS BETWEEN AN INDIVIDUAL'S ACCOUNTS

TRANSFER MADE BETWEEN NON-REGISTERED ACCOUNTS

When you transfer assets between your non-registered accounts, the transfer is not a taxable transaction. Since you continue to own the assets, the transfer does not impact the tax treatment of your assets going forward.

TRANSFER MADE FROM YOUR NON-REGISTERED ACCOUNT TO A REGISTERED ACCOUNT

In some instances, you will want to transfer your securities in-kind that are held in a non-registered account to a registered account. Examples of registered accounts that you can make in-kind transfers to include RRSPs, TFSAs, RESPs and RDSPs.

ASSETS IN A GAIN POSITION

A transfer of assets from your non-registered account to your registered account is a taxable transaction. You will realize the capital gain on the transfer and will need to report the gains on your income tax return in the year of transfer.

ASSETS IN A LOSS POSITION

There are adverse tax consequences



A transfer of assets from your non-registered account to your registered account is a taxable transaction. You will realize the capital gain on the transfer and will need to report the gains on your income tax return in the year of transfer.

to transferring assets with unrealized capital losses from your non-registered account to a registered account. The loss is denied and you cannot use the loss to offset your capital gains.

TRANSFERS BETWEEN SHAREHOLDERS AND CORPORATIONS

TRANSFER MADE FROM YOUR PERSONAL ACCOUNT TO YOUR CORPORATION

ASSETS IN A GAIN POSITION

When you transfer securities to a corporation where you are a shareholder, the transfer is generally considered a taxable transaction. You will need to report the capital gain on your income tax return. The ACB of the securities for the corporation is the fair market value of the assets on the date of the transfer.

If you do not want to realize the capital gain on the transfer, you may be able to transfer the assets on a tax-deferred basis by filing a joint income tax election with the corporation. This election allows you to transfer the securities to your corporation at an elected amount that is between the securities' ACB and their fair market value (subject to certain conditions). By choosing an elected amount that is equal to the ACB of the securities, you will not realize a capital gain on the transfer.

ASSETS IN A LOSS POSITION

The superficial loss rules prohibit you from claiming a capital loss when you transfer assets to a corporation that is controlled by you or your spouse. The loss is denied and is added to the ACB of the securities now held by your corporation.

The ACB of the securities for the

corporation is the fair market value of the assets on the date of transfer plus your denied loss. This may present a planning opportunity if the corporation has capital gains. Ask your RBC advisor for the article titled "Capital Loss and Corporate/Shareholder Transactions" for more details.

TRANSFER MADE FROM YOUR CORPORATION TO YOUR PERSONAL ACCOUNT

ASSETS IN A GAIN POSITION

When your corporation transfers securities to you, your corporation will realize a disposition at fair market value and will need to report the capital gain on its income tax return. The ACB of the securities you receive will be the fair market value of the assets on the date of the transfer.

ASSETS IN A LOSS POSITION

Your corporation will not be able to claim a capital loss realized on the transfer of securities to you or your spouse if you are a controlling shareholder. The corporation can claim the loss once you or your spouse disposes of those securities.

The ACB of the securities you receive will be the fair market value of the assets on the date of the transfer. Ask your RBC advisor for the article titled "Capital Loss and Corporate/Shareholder Transactions" for more details.

TRANSFERS INVOLVING ESTATES OR TRUSTS

CONTRIBUTION BY THE SETTLOR TO AN INTER VIVOS OR LIVING TRUST

When the settlor of a trust contributes assets to a trust during their lifetime, the transfer is generally considered a taxable transaction. In this situation,

When the settlor of a trust contributes assets to a trust during their lifetime, the transfer is generally considered a taxable transaction. In this situation, the settlor will report the capital gain or loss on their income tax return.

the settlor will report the capital gain or loss on their income tax return. The ACB of the assets for the trust is equal to their fair market value on the date of the transfer.

If you are the settlor and you and/or your spouse are a beneficiary of the trust and the assets you are contributing are in a loss position, the superficial loss rules may apply. If the superficial loss rules apply, you cannot claim the loss to offset your capital gains. Please consult with your tax advisor if you are planning to contribute securities to a trust where you and/or your spouse are also a beneficiary.

There are exceptions to the above rules when you are contributing to a spousal trust, alter-ego trust or joint spousal trust. You can transfer assets to these types of trust at cost so you do not trigger a capital gain or loss.

TRANSFER FROM THE DECEASED TO AN ESTATE ACCOUNT OR TESTAMENTARY TRUST

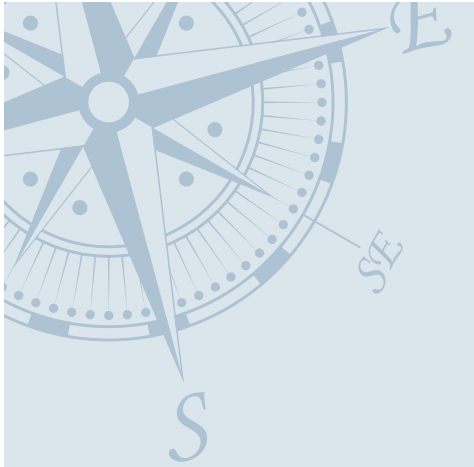
Upon death, the deceased's assets are deemed to be disposed of at fair market value. The executor/liquidator will need to report the capital gain or loss realized on the disposition on the deceased's final personal income tax

return. When securities are transferred to an estate account or testamentary trust, the transfer is made at the fair market value of the securities on the date of death. This value also becomes the ACB of the securities for the trust.

There is an exception where assets are transferred to a spousal testamentary trust. The assets can be transferred into the trust without triggering the capital gain or loss in the hands of the deceased. The capital gain or loss is thus deferred until the property is either disposed of during the spouse's lifetime or when the spouse passes away.

DISTRIBUTION FROM A TRUST TO A BENEFICIARY

When a beneficiary receives capital from a trust, they are not subject to tax on the distribution. Generally, the trust does not realize a capital gain or loss on the distribution and the beneficiary assumes the ACB of the assets from the trust. However, this rollover may not be available if "super attribution" ever applied to this trust. Super attribution generally applies when the settlor or contributor to a trust can take back the assets they've contributed to the trust or can control the distribution of the assets from the trust.



The tax implications of transferring assets vary depending on who you plan to make the transfer. It is important for you to understand the implications so that you can plan for any capital gains tax you may have to pay or avoid transactions that will trigger the superficial loss rules.

If the rollover is available, the trust and the beneficiary can choose to instead transfer the assets out of the trust at fair market value. The beneficiary's ACB of the assets will be equal to the fair market value of the assets on the date of the transfer and the trust will report the disposition on its trust tax return. It may make sense to trigger gains in the trust where the trust has unused losses.

UNDERSTANDING THE TAX IMPLICATIONS OF TRANSFERRING ASSETS

The tax implications of transferring assets vary depending on who you plan to make the transfer. It is important for you to understand the implications so that you can plan for any capital gains tax you may have to pay or avoid transactions that will trigger the superficial loss rules. There may also be tax consequences following a transfer, such as the attribution rules. Therefore, it is important for you to speak with a qualified tax advisor prior to making a transfer.

Appendix I: Summary of the Tax Treatment of In-kind Asset Transfers

The following table is a summary of the tax treatment of the various types of in-kind asset transfers outlined in this article.

Type of transfer	Taxable	Non-taxable	Optional treatment
Transfers between individuals			
Transfers to spouse			✓
Transfers to a minor/ in-trust account for a minor	✓		
Transfers to other non-arm's length adult individual	✓		
Transfers to arm's length individuals	✓		
Transfers between accounts owned by the same individual			
Transfers between individual's non-registered accounts		✓	
Transfers from an individual's non-registered account to a registered account	✓		
Transfers between shareholders and corporations			
Transfers from shareholder's personal account to their corporation			✓
Transfers from a corporation to a shareholder's personal account	✓		
Transfers involving estates or trusts			
Transfers from a settlor to an inter vivos or living trust	✓		
Transfers from the deceased to a testamentary trust or estate account	✓		
Transfers from a trust to a beneficiary			✓

Please contact us for more information about the topics discussed in this article.

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