

The Client Advisor



2015 Changes in Estate Administration Tax

by Eden Maher



Estate Trustees will want to be aware of new rules regarding estate administration tax (formerly called “probate fees”). As of January 1, 2015 Estate Trustees must now provide the Minister of Finance a breakdown of the fair market value of each substantial asset owned by the deceased as at the date of death as well as a detailed description of each asset. This is a much more onerous requirement than in the past, intended to ensure that the government can collect the full value of tax on a deceased’s assets.

Estate Trustees are now required to complete a document called an “Information Return” within 90 days of being issued a Certificate of Appointment of Estate Trustee (formerly called “letters probate”); or subsequently, within 30 days of discovering new information or an error.

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is a full service legal firm serving a wide range of private businesses, public sector institutions, professionals and individuals throughout Ontario. Providing timely and practical advice to its clients, the lawyers of the firm provide specific counsel and advocacy in matters of property, business, dispute resolution and estate planning and administration.

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The new rules allow the Minister of Finance to audit estates up to 4 years from the date the estate administration tax becomes payable and impose penalties where an Estate Trustee has misrepresented the value of assets or withheld information.

The main impact this has for Estate Trustees and beneficiaries of estates is cost. First, Estate Trustees will need to obtain valuations and appraisals of assets and provide supporting documentation. The additional time and expense to the estate, though necessary, will not be eagerly embraced by Estate Trustees or beneficiaries. Second, more accurate reporting of assets will likely mean more estate administration tax will be payable.

Currently, Estate Trustees can protect themselves from legal liability by obtaining a clearance certificate from Canada Revenue Agency (CRA) once all applicable income taxes have been paid for the estate. CRA cannot come back, after providing the clearance certificate, and attempt to collect an income tax liability from the estate. Similarly, going forward, Estate Trustees will be able to obtain a “comfort letter” from the Minister of Finance. It is uncertain what these letters will look like or how much protection from legal liability they will provide Estate Trustees. Presumably, these “comfort letters” will assure Estate Trustees and beneficiaries that no further estate administration tax will be payable by the estate.

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Estate Information Return
Estate Administration Tax Act, 1998
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Ministry Use Only - Date Received

This return is to be completed in addition to an application for a certificate of appointment of estate trustee submitted to the Court (Ministry of the Attorney General). It will be used by the Ministry of Finance to enforce compliance with the *Estate Administration Tax Act, 1998*. This return must be received by the Ministry of Finance within 90 calendar days after a certificate of appointment of estate trustee is issued.

If after submitting this return, you discover information was incorrect or incomplete, an amended return must be received by the Ministry of Finance within 30 calendar days from when the error or additional information about the property of the estate is known. See guide for additional information.

Is this an Amended Return?
(if yes, check ☒ box) ☐ Please explain below why this return is being amended ▼

Reason: (Note: If the return is amended due to a fulfillment of an undertaking, include particulars and amounts of additional tax paid.)

A Information about the Certificate of Appointment of Estate Trustee

Indicate which type of certificate of appointment of estate trustee was granted by the Court (please choose one)

Form No.

☒ 74.13 Certificate of Appointment of Estate Trustee with a Will

☐ 74.13.1 Certificate of Appointment of Estate Trustee with a Will Limited to the Assets Referred to in the Will

☐ 74.20 Certificate of Appointment of Estate Trustee without a Will

☐ 74.20.3 Certificate of Appointment of Foreign Estate Trustee's Nominee as Estate Trustee without a Will

☐ 74.28 Confirmation by Re-sealing of Appointment of Estate Trustee

☐ 74.29 Certificate of Ancillary Appointment of Estate Trustee with a Will

Date (yyyy/mm/dd)
2015/01/31

Enter the date above Certificate/Confirmation was issued

Enter the Court File No. assigned 1 | 2 | 3 | 4 | 5 | / | 1 | 5 |

Which Superior Court of Justice in Ontario was used to file your application? (please specify location)
Peterborough, Ontario

Was the deposit amount submitted based on an estimated value of the estate?
If yes, please attach a copy of the undertaking submitted to the court. Yes No
☐ ☒

Date of Undertaking (yyyy/mm/dd)

Was the certificate of appointment of estate trustee issued without payment of deposit equal to tax?
(subsections 4(1) and (2) of the *Estate Administration Tax Act, 1998*) Yes No
☐ ☒

If yes, please attach a copy of the court order and details about the security provided to the court.

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Our firm regularly advises Estate Trustees in the administration of estates. We would be pleased to explain to you the changes that have come into force this year as part of the services we provide to our Estate Trustee clients.