

IMPORTANT NOTICE TO HOLDERS OF TAX-FREE SAVINGS ACCOUNTS (TFSA)

Notice to TFSA Holders-Possible Tax Implications

If you trade a lot, and especially if you trade frequently in your Tax-Free Savings Account (TFSA), this information is for you.

Most Canadians believe if they make a gain when they sell a stock, option, mutual fund or bond, they pay tax on the gain at a more favorable rate than they do on the same earned amount from their job. While usually the case, this is not always true.

If someone spends a lot of time buying and selling securities, it can be considered a business and tax will apply at the higher rate of tax on ordinary income. As an example, Canadian financial institutions can rarely claim capital gains treatment because they **carry on the business of trading securities**.

Even typical Canadian may have to pay tax at the higher rate applicable to ordinary income, for example, in the case of a *short sale* of shares or, if there is no, or a below-market, interest rate on a debt security. Other examples include cases when people are considered to be a *trader or dealer in securities*. Sometimes they are day traders and pay the full rate of tax on earnings, including gains, from trading.

Are you carrying on a business?

The CRA looks at your trading pattern to see if you are acting like a trader.

Factors include:

- a) High transaction frequency-**Do you buy and sell often?**
- b) Brief Ownership period- **Do you own securities only for a short time?**
- c) Good knowledge of securities markets-**Do you have knowledge of or experience in capital markets?**
- d) Part of ordinary business- **Are securities transactions part of your ordinary work?**

- e) Extended time spent-**Do you spend a lot of time studying the securities markets and researching potential purchases?**
- f) Leveraged financing-**Do you buy securities primarily on margin or finance them by way of other forms of debt?**
- g) Advertising-**Do you advertise or otherwise make it known that you are willing to buy and sell securities?**
- h) Speculation-**Are the securities you buy considered speculative? Do they not pay dividends?**

Although none of these factors may alone be enough to prove you are carrying on a business, evidence of several factors could be enough for the CRA to consider you to be doing so.

Why have not heard of this before?

These rules have been in place for many years with no real changes. What has changed over the last 30 years is the financial marketplace, including improved technology that offers easier access to trading.

Should I be worried?

If you think your investing may meet more than one of the above criteria, you may be considered to be carrying on the business of trading, and therefore may be liable for a higher tax rate. **It is particularly important not to carry on the business of trading in your TFSA as income earned from carrying on business in a TFSA is subject to tax.**

Talk to a tax professional if you need help.