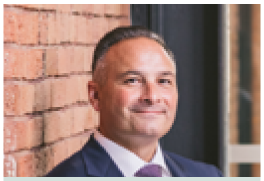
NEWSLETTER Q3

IN THIS ISSUE

TD Wealth Private Investment Advice

Tel: 519-253-1028
TF: 1-800-287-1898
156 Ouellette Avenue, Suite 300
Windsor, ON N9A 1A4
www.brazierdupuiswealth.com



Brad Brazier
Vice President, Portfolio Manager

P.J. Dupuis
Vice President, Portfolio Manager

Nicole Slatford
Client Service Associate

Samuel Lau
Associate Investment Advisor

Boraba Sordachanh
Administrative Assistant

What Drives Us

Summer 2021

With another quarter come and gone, stock market averages have moved higher at the time of writing and may be positioned for further gains.

Many investors have taken advantage of these more relaxed COVID days to increase their social media engagement. In doing so, they have come across different "investment-like" ideas and terms – meme stocks, special-purpose acquisition companies (SPACs), Cryptocurrencies, influencers, and more.

As our team grasps these influencer-like ideas and terms, we are anchored by the wisdom of experts in our field. When P.J. and I consider our own combined 45+ years of market and economic experience, we are at peace with the diversity and methodology we use in our client's portfolios. As we have been taught a valuable lesson by Benjamin Graham, Warren Buffet's mentor, that the market is a voting machine in the short term and a weighing machine in the long term. And it weighs corporate earnings and validates intrinsic value.

In this issue, we will cover joint accounts and estate planning and proudly introduce you to our new team member, Boraba Sordachanh.

Brad Brazier
Vice President, Portfolio Manager
TD Wealth Private Investment Advice

Joint Accounts and Estate Planning

Excerpts from the original article by TD Wealth.

Account ownership in Joint Tenancy With Right of Survivorship (JTWROS) is a common method of holding accounts that are often used by family members, such as spouses or aging parents and their children for estate planning purposes. There are several items to consider prior to transferring accounts into joint ownership. Please note this article does not apply to U.S. citizens, residents or green card holders.

If an account is held as a JTWROS, each joint owner has an undivided interest in the whole property. When a joint owner dies, that person's interest automatically transfers to the remaining joint owner(s). The property does not form part of the deceased's estate and therefore it should not be included in the value of the estate for probate purposes.[1]

Please Note: Laws in Quebec are significantly different from the rest of Canada. In Quebec, Common Law estate planning strategies involving JTWROS are not applicable under Quebec Civil Law.

What Impact do Presumptions have on Joint Accounts?

When assessing legal and beneficial ownership of joint accounts, consideration is typically given to common law principles. The main issue is the intentions of the transferor when the property is transferred into a JTWROS. To help provide clarity, courts typically look to two different legal presumptions when determining the transferor's intentions. When the transferor's intentions are unclear or unknown, the presumptions provide a guide to determining intent.

Depending on the relationship between the joint parties, one of the presumptions will typically apply. However, in certain cases, legislation may specify that a different presumption applies.

The presumption of resulting trust

The recipient of the property holds the property in trust for the transferor and the transferor remains the beneficial owner of the property. The presumption of resulting trust generally applies to gratuitous transfers of property from a parent to an adult child. If the presumption of resulting trust applies, the onus is on the recipient (i.e., adult child) to rebut the presumption and prove that a beneficial transfer was intended.

The presumption of advancement

Property (or a portion of property) transferred is an outright gift to the person that received it. This applies depending on the relationship between the parties. For example, it typically applies when property is transferred between spouses or between parents and minor children.

In *Pecore v. Pecore*, it was determined by the Supreme Court of Canada that the recipient of the account has to prove that the transferor's intention was to gift the account to them at the time of the transfer if the presumption of resulting trust applies.

The transferor's intentions are the determining factor. If, for example, the deceased intended for their child to be named as a joint owner to receive the account at death, then the courts would typically give effect to that intention.

Some factors which may be relevant in determining a transferor's intentions include:

- Evidence of the relationship between parties;
- Wording in documents that suggests the transferor's intention as to the beneficial interest in the account;
- Control and use of the account;
- Granting of a power of attorney appointing the transferee; and
- Transferor's tax treatment of the joint account.

Is JTWROS an Effective Estate Planning Tool?

Joint ownership can be quite complex since it may result in more than one outcome.

Converting an account into a JTWROS can be an effective tool to help minimize or avoid probate taxes and to simplify the administration of an estate. However, there are a number of potential disadvantages associated with using a JTWROS arrangement:

- Changing ownership of an account may have tax implications;
- Converting an account to a JTWROS arrangement may expose the account to family law or creditor claims; and
- Converting an account to a JTWROS arrangement may cause the account to end up in unintended hands.

For the unabridged version of this report, please visit TD Knowledge Centre: **tdknowledgecentre.com/public/common/documentPreview.jsp?itemCode=247F17E3F263**

[1] With a bank account, while the financial institution where the JTWROS account is held will not require probate to release the funds to the surviving joint owner, if the JTWROS arrangement is subject to a Resulting Trust Arrangement the account is an estate asset and so the possibility exists that probate tax will nevertheless be payable on the account value if the estate is required to obtain probate for other reasons.

BDWM IN ACTION

Team Highlight

Please give a warm welcome to our newest team member and administrative assistant, Boraba Sordachanh.

After 12 years of success in the telecommunications industry, Boraba brings her strong relationship-building and organizational skills to the administrative side of financial wealth management. She is committed to providing ongoing support and contributing to maximizing efficiency.

Outside of the office, Boraba and her husband manage a busy lifestyle with two young, active boys. Besides spending time with family, she loves to travel, craft, cook and bake with the boys as they are the real critics!

REFERRALS THAT PAY IT FORWARD

We are happy to announce that our referral program is already making a difference in the Windsor-Essex community and beyond. This year has already seen contributions made to both the Canadian Guide Dogs for the Blind and the Society of Saint Vincent de Paul Windsor-Essex. We look forward to making further contributions at the recommendation of our clients in the future.

To learn more about our referral program and how Brazier Dupuis Wealth Management can make a donation in your name, please contact our office.