



**You must accompany your inquiry with your MEMBERSHIP NUMBER (ID) and telephone number or e-mail address to have your question reviewed. Send your inquiry to the MoneySaver office. (Broad appeal answers are published here. Dozens of others are found on our website.)**

➔ *When a couple have a joint non-registered account and one person dies, is there capital gains to consider on 50% of all stocks in the account or do the stocks all automatically transfer to the surviving spouse free of capital gains tax?*

**L.D., e-mail**

The stocks effectively are transferred by way of a deemed sale to the surviving spouse. They are deemed to have been sold to the surviving partner at the purchase price or adjusted cost base (called ACB) of the shares. The ACB changes when you consider commissions paid on purchases and when the same stock was purchased at different times for different amounts. This doesn't really change the amount of money that has been spent and is only a concern if some of the shares were already disposed of prior to the death of one partner. Since the shares are transferred at their purchase price or ACB, no capital gains will result until the property is disposed of by the surviving spouse or common-law partner. So, they are not

really "free", but more deferred until the shares are actually sold.

**Peter Premachuk, H&R Block Canada, Olds, AB (403) 556-3479**

➔ *Where can one find a page or website that lists the preferred shares, the rates and the start and stop dates?*

**J.G., e-mail**

I publish such a list at <http://www.prefinfo.com>, but I make no guarantees that you will find it easy to invest in preferred shares! If it was easy, I'd be out of work!

The list at [prefinfo.com](http://www.prefinfo.com) contains all issues which are, or ever have been, tracked by my proprietary analytical software, HIMIPref. It makes no attempt to be exhaustive and there are many small or poor quality issues that are not listed, but you will find that all reasonably liquid preferred shares issued by investment grade – or formerly investment grade – corporations are described.

**James Hymas, CFA, Hymas Investment Management, Toronto, ON (416) 604-4204**

➔ *From an estate planning perspective, what happens to a capital loss position that exists in an account on death of the account holder? Does it die with the holder or roll over to a spouse?*

**B.B., e-mail**

At the date of death, any capital losses or gains are crystallized and reportable on the final income tax return, although, there are spousal rollover provisions to maintain the adjusted cost base of the assets (whether or not in a gain or loss position). If the total deemed and allowable capital losses exceed the taxable capital gains, the excess may be applied against other income on the final return. If there is not enough income available, you may carry back any capital losses to previous years and make an income deduction. You may also use the losses for application against the previous three years' capital gains.

**Gina Macdonald, BA, RFP, Macdonald, Shymko & Company, Vancouver, BC (604) 687-7966**

➔ *My son worked 5 months for a businessman and drove his truck on a regular basis. He had to drive 35 km to get to the pick-up point. He was paid by the hour, no deductions. So, he wasn't self-employed in my opinion. Mostly he worked 8 hours. How do we declare the earnings?*

**M.M., e-mail**

It actually sounds like your son was an employee as he went to the same place each day, used his

employer's equipment and was under the direction and control of the businessman. Since it was short term, he was treated as a contract employee which could be classified as self-employed. As a self-employed individual, your son can claim all expenses he incurred to earn that income. These would include the business portion of his automobile expenses – gas, insurance, repairs etc. used in driving to his pick-up point. He would have to know his overall mileage driven for the year and the mileage driven for this job. The percentage of his "work" mileage will give you the percentage of automobile expenses he can claim. He may also be able to declare some meals and other expenses related to his work. Receipts are required to claim most self-employment expenses. Assuming he is over 18, his earnings will also be subject to Canada Pension Plan (CPP), which will be calculated on his tax return.

When he has his tax return prepared, his tax consultant will be able to review what types of expenses he incurred and assist in claiming the appropriate amounts. The earnings and expenses are all declared on his personal tax return using form T2125.

**Peter Premachuk, H&R Block Canada, Olds, AB (403) 556-3479**

➔ *I failed to get a valuation on a real estate property (the cottage) and take the 1994 capital gains election. Is there any way to do that now?*

**R.D., e-mail**

CRA discourages retroactive tax planning and it's unlikely they would allow you to file an election at this time. Even if they did, they might impose late filing penalties and scrutinize your tax return for that year for other errors and/or omissions. If they were able to assess additional taxes for 1994, these taxes would be subject to compound interest from 1994 to the date they were paid. If you believe that the potential tax savings would warrant it, you may wish to consult a tax lawyer on this matter. However, I believe the advice would likely be the same.

**Cynthia Kett, CA, CGA,  
CFP, Stewart & Kett  
Financial Advisors Inc.,  
Toronto, ON (416) 362-  
6323**

➔ *The MER has a number of components not all of which are subject to the new tax, e.g. portfolio management, marketing, trailer commissions, administration expenses and profit. Some folks apply it to the entire MER. What is correct?*

**K.K., e-mail**

You are correct in that the HST will not be applied to the entire MER. However, in the interest of simplicity and illustration, the HST calculations are on the entire MER. I was not able to break out each of the components you identified in my analysis. To further complicate that level of detail is the fact that each fund's mix of HST and non-HST applicable bases are different. Therefore, that level of detailed analysis

is not possible on a "general" basis. Rather, it would need to be done on a fund-by-fund basis.

To ensure readers are aware of the "general level" analysis, I included the following paragraph:

*"In the interest of precision, a reported MER of 2% includes a portion of GST. If HST is applied to MERs, the GST portion included in the 2% will not be subject to the provincial portion of the HST."*

Thus, the calculations are not precise in that respect.

However, it is important to understand that the reason I wrote the article was to illustrate that MERs will increase, and it will have an impact on one's portfolio over the long run. I do not sell mutual funds or exchange-traded funds, etc. I have no incentive other than to help people minimize their taxes and increase their wealth.

**Camillo Lento, CA, MSc,  
Lakehead University,  
Thunder Bay, ON (807)  
343-8387**

➔ *If Dr. Feldman writes in his will that everything he owns, or even specifically states every asset he owns in his will, and leaves it to his wife, I always thought that there was no probate on it. (The January 2010 article involves Dr. Feldman's case.)*

**H.K., e-mail**

Unfortunately, your understanding of probate fees is not a hundred percent (100%) accurate. If avoiding probate was that easy, people would not worry about joint owner-

ship or transferring their assets to a trust before their death. In layman's terms, any assets that flow through an estate are subject to probate fees. There are different laws in each province that might affect which assets are affected. As well, there are different rates of probate fees in each province.

However, for certain assets where you can name your spouse or children as the beneficiary to ensure the assets bypass the estate and flow directly to the beneficiary you will avoid probate. Designating a beneficiary under insurance policies, RRSPs, RRIFs and pensions will allow the proceeds to be paid directly to the named beneficiary. The proceeds will not form part of your estate and are not subject to probate fees. Probate fees are only payable if the proceeds are payable to the estate, or if the named beneficiary dies before you. In some cases you may want to designate an alternate beneficiary to avoid the proceeds being paid to your estate.

Please consult with an estate lawyer to get further clarification on this matter.  
**Dale Romanovsky, BComm,  
CA, Romanovsky &  
Associates, Toronto, ON  
(416) 223-5111**