A Guide to the Principal Residence Exemption

BMO Wealth Management

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One of the most important tax breaks offered to Canadians is the "principal residence exemption" which can reduce or eliminate any capital gain otherwise occurring for income tax purposes on the disposition (or deemed disposition, such as upon death) of your home. In general, a resident of Canada who owns only one housing unit, which is situated on land of one-half hectare or less, and which has been used since its acquisition strictly as his or her residence, will qualify for the principal residence exemption. Although simple in concept, in situations other than the one described above the tax rules governing the exemption can quickly become complicated, particularly when more than one residence is owned by a family unit. This publication provides an overview of the exemption and outlines many of the common issues encountered in its application.

What is a principal residence?

A principal residence can be any of the following types of housing units:

- House;
- Cottage;
- Condominium;
- Apartment in an apartment building or in a duplex; or
- Trailer, mobile home or houseboat.

How does a property qualify?

A property qualifies as your principal residence for any year if it meets all of the following four conditions:

- It is a housing unit (as described above);[1]
- You own the property alone or jointly with another person;
- You, your current or former spouse, or common-law partner, or any of your children lived in ("ordinarily inhabited") the property at some time during the year; and
- You designate the property as your principal residence.

Meaning of "ordinarily inhabited"

As previously noted, the housing unit must have been "ordinarily inhabited" in the year by the taxpayer or by his or her spouse or common-law partner (or former spouse or common-law partner) or child. However, this term entails only a modest threshold. Even though a person may inhabit a housing unit only for a short period of time in the year, this is sufficient for the housing unit to be considered ordinarily inhabited in the year by that person. Accordingly, a seasonal residence — such as a cottage occupied only during the summer months — could also qualify as a "principal residence" as discussed in more detail in a subsequent section. However, if the main reason for owning a housing unit is to gain or produce income, then that housing unit will not generally be considered to be ordinarily inhabited in the year by the taxpayer, particularly where it is only inhabited by the taxpayer for a short period of time in the year. Generally, when making this determination a person receiving only incidental rental income from a housing unit is not considered to own the property mainly for the purpose of gaining or producing income.

Note that where a child inhabits a residence owned by his/her parent, the property can still qualify under the definition of "ordinarily inhabited," to enable the parent to claim a principal residence exemption on sale, even when the parent does not live in the property. This may apply, for example, where an elderly single parent moves out of their home into a senior's facility and one or more of their (adult) children moves into the parent's home. On the eventual sale (or deemed disposition at death), the property can still qualify as the parent's principal residence, assuming the parent retains ownership of the property (and does not own another property designated as their principal residence). However, the reverse is not true. Where an adult child is the owner of a house in which his/her elderly parent lives, if the child does not also live in the house it will not qualify as being "ordinarily inhabited" by the owner (child) and, therefore, the principal residence exemption will not be available.

Even if the housing unit is not ordinarily inhabited in the year by any of the persons previously outlined, it is still possible for the property to be considered the taxpayer's principal residence for the year by means of the potential tax elections described in the section, "Change-in-use of a principal residence."

Designation of a property as a principal residence

In calculating the amount of capital gains that can be sheltered by the principal residence exemption upon a sale or disposition, a property must be designated as a principal residence on a year-by-year basis. Specifically, for a property to be a taxpayer's principal residence for a particular year, he or she must designate it as such and no other property may have been so designated by the taxpayer for the year. Furthermore, for tax years after 1981,[2] no other property may have been designated as the principal residence for the year by any member of the taxpayer's "family unit," which generally includes a spouse or common-law partner and unmarried children who are under age 18 throughout the year.

However, in the case of a relationship breakdown, it is important to note that a separate principal residence exemption is not immediately available to each separated spouse (or common-law partner). Instead, each spouse/common-law partner will not be entitled to their own exemptions unless and until the (separating) spouses or common-law partners have been living apart for a full calendar year and were separated under a judicial separation or written separation agreement.[3]

Note that it is possible for a property located outside Canada — depending on the specific facts — to qualify as a taxpayer's principal residence. However, this scenario may entail additional tax implications, so it's important to seek both Canadian and foreign tax advice if a foreign residence is sold.

Surrounding land

The land on which your home is located can be part of your principal residence. Usually, the amount of land that you can consider as part of your principal residence is limited to 1/2 hectare (i.e., approximately 1.25 acres). However, if you can demonstrate that an additional amount of land is necessary for the use and enjoyment of the housing unit as a residence, you may be able to claim this excess amount as part of your principal residence. Land in excess of one-half hectare may be considered necessary where the size or character of a housing unit, together with its location on the lot, make such excess land essential to its use and enjoyment as a residence, or where the location of a housing unit requires such excess land in order to provide its occupants with access to and from public roads. Other factors may be relevant, such as a minimum lot size, or a severance or subdivision restriction.

The excess land must clearly be necessary for the housing unit to properly fulfill its function as a residence and not simply be desirable for a particular recreation or lifestyle (such as for keeping pets or for country living). However, where a portion of that land is used to earn rental or business income, such portion will not usually be considered to contribute to the use and enjoyment. Where the total area of the land upon which a housing unit is situated exceeds one-half hectare, and the excess land is deemed not to have contributed to the use and enjoyment of the housing unit as a residence, the excess portion will not qualify as part of a principal residence and, therefore, any capital gain related to this portion will be taxable at the time the entire property is sold.

Transfer of principal residence into joint ownership

Many (elderly) homeowners often consider the transfer of their principal residence (and other assets) into joint tenancy (with right of survivorship) with one or more of their adult children, as a means of avoiding potential probate fees on death or easing the administration of their estate.[4] However, this strategy is generally NOT recommended because of the potential tax and legal "side-effect" of a transfer, including the potential loss of the protection provided by the parent's principal residence exemption against future capital gains.

More specifically, there are several tax and legal considerations to review before creating a joint tenancy (with right of survivorship) between an elderly parent and their adult child(ren), including a possible disposition of a portion of the property for tax purposes upon establishment of the joint tenancy. This is because, generally, the transfer results in a change in the "beneficial ownership" of the property such that a disposition for tax purposes of the portion of the property transferred will occur. Although it may be possible to shelter any accrued capital gain on the transfer with the parent's principal residence exemption, going forward there will be exposure of any future appreciation for the children's portion of the gain on a future sale of the property (e.g., if the child owns his/her own principal residence, thereby precluding a principal residence claim on their portion of ownership of the parent's property), since, typically, each joint owner is required to report their proportionate share of income/capital gains earned on the jointly-owned property.

Other considerations include the potential for estate disputes amongst family members, exposure to the transferee's creditors (including ex-spouses) and possible interference with the estate planning outlined in the parent's Will.

For more information, please see the BMO publication, *Pros & Cons: Joint Ownership of Property*, which outlines some of the various tax and legal implications of establishing a joint ownership arrangement. Because of the complexities, if you are considering establishing a joint ownership arrangement, please consult with your tax and legal advisors to fully understand the potential implications for your specific scenario (including any potential "land transfer tax" considerations).

Trusts

As outlined in the BMO publication, *Planning for the Family Vacation Property*, many families consider using a formal trust structure to hold property, such as a family cottage, to establish specific terms governing the funding and future use of the property. In addition to the tax and legal issues associated with the use of a trust explored in this publication — including the tax implications on transfer to the trust and the potential deemed disposition on the 21st anniversary of the trust — the possible impact to the principal residence exemption should be considered. Prior to amendments introduced in 2016, it was generally possible for a personal trust to claim the principal residence exemption to reduce or eliminate a gain that the trust would otherwise realize on the disposition of a property, with some modifications to the basic rules. Under the amended rules, the principal residence exemption will not be available to certain trusts, including family trusts, on dispositions after 2016. However, transistional rules allow the principal residence exemption to be claimed by a trust, which disposes of property after 2016, for years of ownership prior to 2017. Moreover, prior to a trust designating a property as a principal residence (for years prior to 2017), the impact to the trust beneficiaries in respect of their ability to claim the principal residence exemption on their own homes, should be considered.

To elaborate, for each tax year for which the trust is designating the property as its principal residence, no other property may have been designated as a principal residence by any "specified beneficiary" or a member of the beneficiary's family unit (which includes their spouse or common-law partner and any unmarried children under the age of 18). For this purpose, a "specified beneficiary" includes an individual who is beneficially interested in the trust, and ordinarily inhabited the housing unit (or whose spouse or common-law partner, or child ordinarily inhabited the housing unit). In other words, if a family trust designates a property as its principal residence for a particular year, the property is deemed to be the property designated as the principal residence of each specified beneficiary of the trust for that year. Accordingly, if a family member is a beneficiary of the family trust, and uses the cottage in the year, such designation by the trust will preclude that individual (and their spouse/common-law partner) from claiming a principal residence exemption on another property — such as their own principal residence — for that year.

In addition to these modifications applicable to trusts, the recent legislative amendments previously outlined provide additional criteria to better align trust eligibility for the principal residence exemption to situations where property is held directly by an individual. In particular, a trust will be required to be — in each year that begins after 2016 for which the designation applies — a spousal or common-law partner trust, an alter ego trust (or a similar trust), a qualifying disability trust, or a trust for the benefit of a minor child of deceased parents. In addition, the trust's beneficiary who, or whose family member, occupies the residence for the year will be required to be resident in Canada in the year, and will be required to be a family member of the individual who creates the trust. Transitional relief is provided for affected trusts for property owned at the end of 2016 and disposed subsequently.[5]

Given the additional criteria outlined above that are required for trusts to qualify for the principal residence exemption create further complexities and some traps for the unwary, consultation with your tax and legal advisors is recommended whenever a trust structure is used.

Capital or income treatment

When you dispose of a property which results in a gain or a loss, it may be treated as a capital gain/loss (capital transaction) or as an income gain/loss (income transaction). The facts surrounding the transaction determine the nature of the gain or loss, as either income or capital.

In the context of the principal residence exemption, there are concerns if there is only a short-term ownership of a personal residence and/or the property is 'flipped' shortly after purchase to produce a quick profit. In these scenarios, particularly where leveraging is involved, it is possible that the Canada Revenue Agency (the "CRA") could view this transaction as income (versus capital) due to the speculative nature which would preclude the possibility of claiming the principal residence exemption; which is only available on capital transactions. Accordingly, the gain would be treated as business income and the full 100% profit would be taxable.

It should also be noted that a property which is used primarily as a residence (that is, for the personal use and enjoyment of those living in it) is considered personal-use property. Therefore, a loss on the disposition of such a property is deemed to be nil for income tax purposes.

Change-in-use of a principal residence

It is not uncommon for homeowners to change the use of their residence from personal use to a rental property, or vice-versa, as life circumstances change or if a new property is acquired. In these situations, it is important to consider the income tax implications that can arise, including the potential impact to the principal residence exemption.[6] The following provides a few such examples:

1. **Change-in-use from principal residence to income-producing**
   A complete change in the use of a property from a principal residence to income-producing (or vice-versa) will create a deemed disposition of the property for tax purposes (both land and building) at fair market value and an immediate reacquisition at the same amount. However, any gain determined on this deemed disposition may be eliminated or reduced by the principal residence exemption, but any future appreciation as an income-producing property may be exposed to taxation.

   Alternatively, it is possible to defer recognition of any gain to a later year by making a tax election which deems "no change-in-use" of the property, provided that no capital cost allowance ("CCA") — i.e., tax depreciation — is claimed on the property when reporting the net rental income earned. A property can qualify as the individual's principal residence for up to four tax years during which time the election remains in effect, even if the housing unit is not ordinarily inhabited during those years by the individual or his/her family unit; however, this would preclude a similar designation of any other property as a principal residence during this time. In certain circumstances, the four-year limit can be extended indefinitely.

2. **Change-in-use from rental property to principal residence**
   Similar to the previous scenario, a complete change in the use of a property from income-producing to a principal residence, will also result in a deemed disposition for tax purposes of the property (both land and building), and an immediate reacquisition at fair market value, which may result in a taxable capital gain. However, it is possible to defer recognition of the gain to a later year by filing a tax election to prevent this deemed disposition from applying. This election is not available if a CCA was previously allowed in respect of the property (after 1984).

   As previously, if you make this election you can designate the property as your principal residence for up to four years before you actually occupy the property as your principal residence. Again, making this election would preclude a similar designation of any other property as your principal residence for this timeframe.

3. **Partial changes-in-use**
   If you only convert part of your principal residence to an income-producing use — such as renting out a spare bedroom in your home — a deemed disposition (and immediate reacquisition) of the portion of the property so converted will occur for tax purposes, for proceeds equal to its proportionate share of the property's fair market value. Any gain otherwise determined on the deemed disposition is usually eliminated or reduced by the principal residence exemption. If the portion of the property that was converted to an income-producing use is later converted back to use as part of the principal residence, there is a second deemed disposition (and reacquisition) at fair market value. A taxable capital gain attributable to the period of use of such portion of the property for income-producing purposes can arise from such a second deemed disposition, or from an actual sale of the whole property subsequent to the original partial change in use. Previously, the elections discussed above to defer the deemed disposition on the "change in use" were not available when there was only a partial change in the use of a property. However, to improve the consistency of the tax treatment of owners of multi-unit residential properties in comparison to owners of single-unit residential properties, the 2019 Federal Budget proposes to allow a taxpayer to elect that the deemed disposition that normally arises on a change in use of part of a property not apply. This measure is intended to apply to changes in use of property that occur on or after the March 19, 2019 Budget Day.

It is important to note that the deemed disposition rule will only apply where the partial change in use of the property is substantial and of a more permanent nature — such as when a structural change occurs on the conversion of a portion of a house into a duplex or triplex to earn rental income, or alterations to a house to accommodate separate business premises. However, it is the CRA's practice not to apply the deemed disposition rule, but rather to consider that the entire property retains its stature as a principal residence, where all of the following conditions are met:

- Your rental or business use of the property is relatively small in relation to its use as your principal residence;
- You do not make any structural changes to the property to make it more suitable for rental or business purposes; and
- You do not deduct any CCA in calculating the rental/business income you report for tax purposes.

If you meet all of the above conditions, the whole property may qualify as your principal residence, even though you are using part of it for rental or business purposes. (Those working from home in 2020 as a result of the COVID-19 pandemic should also take note.) However, if all of these conditions have not been met, when the property is sold the proceeds (and the associated capital gain) must be prorated based on the portion of the property used as a principal residence (which can be sheltered) and the portion used for rental or business purposes (which will be taxable).

Reporting

Although a property is determined to be a principal residence on an annual basis, the designation of a property as a principal residence occurs only in the year of sale/disposition. The amount of any capital gains sheltered from the principal residence exemption will depend on a formula which prorates the number of years of designation versus the number of years of ownership of the qualifying property.

Specifically, the reduction in the taxpayer's gain on sale/disposition otherwise determined is calculated by using the following formula:

A × (B ÷ C)

Where:

A is the taxpayer's gain otherwise determined.

B is 1 + the number of tax years ending after the acquisition date for which the property was designated as the taxpayer's principal residence and during which he or she was resident in Canada.[7]

C is the number of tax years ending after the acquisition date during which the taxpayer owned the property (whether jointly with another person or otherwise).

Example: John and Mary, who have been residents of Canada for tax purposes their entire lives, purchased a home in 2004 for $200,000 which they lived in until they sold it in 2020 for $300,000. Since they did not own any other real estate properties during this period, they intend to claim the principal residence exemption for each year of ownership, which will fully eliminate the $100,000 capital gain otherwise determined, as follows:

Capital Gain on Sale of Home

Proceeds:	$300,000
Adjusted Cost Base:	$200,000
Capital Gain:	$100,000

Principal Residence Exemption Claim:

A × (B ÷ C)

A is the taxpayer's gain otherwise determined = $100,000.

B is 1 + 17 (i.e., the number of years after acquisition for which the property is designated as as the taxpayer's principal residence).

C is the number of years after acquisition in which the property was owned = 17.

The calculation $100,000 x (18/17) exceeds the capital gain on sale and fully shelters it from taxation.

For illustrative purposes only.

In general, the designation of a property as a principal residence is to be made in the homeowner's income tax return for the tax year in which the property was sold/disposed. Prior to 2016, the CRA administrative policy did not require individuals to file the designated form (Form T2091[8]) unless:

- A taxable capital gain on the disposition of the property remained after using the principal residence exemption formula above; or
- The 1994 tax election (in respect of planning to access the former $100,000 general capital gains exemption) was filed with respect to the property.

Further, the CRA's assessing practice was to assume that notwithstanding the fact that Form T2091 was not filed in the year of sale/disposition (under the above policy where the principal residence exemption formula eliminates any gain), the individual was still considered to have designated the property disposed as his or her principal residence (i.e., to have claimed the principal residence exemption for that property) for the years in question. As such, the principal residence exemption will not be available on another property for any of the years in which the disposed property was also owned.

However, for 2017 and later years, individuals who sell (or are deemed to dispose of) their principal residence are required to report the sale on Schedule 3, Capital Gains of their T1 Income Tax and Benefit Return and Form T2091 (or Form T1255 for deceased individuals). As a result of this recent change in the CRA's administrative policy, the principal residence exemption will now only be allowed if the sale and designation of principal residence was reported in the income tax return for the year of sale/disposition. However, the CRA will accept a late designation in certain circumstances, but a penalty may apply.[9]

Multiple properties owned — optimal use of the exemption

A common dilemma faced by many families who own more than one residence — such as a home and a cottage — is whether to claim the principal residence on the sale of one of the properties or upon the deemed disposition created by a change-in-use, such as when the family moves to their cottage and begins to rent their home. This dilemma arises because the election to designate a property as a principal residence is only made at the time the sale/disposition of the property occurs, so some speculation is required to determine the optimal use of the principal residence exemption when only one of the family properties is disposed in a particular year.

As noted previously, the principal residence exemption is somewhat of a misnomer since it may be possible to claim the exemption on a property (such as a cottage) which is inhabited less frequently than another, because the rules only require that the elected property is "ordinarily inhabited" in the year (which is a relatively low threshold).

In general, this claim is optimized by choosing to designate (as the principal residence) the property which has experienced the greater increase (on average) in value on a per year basis, which typically is the family home. However, since this election occurs only at the time of sale/disposition, unless both properties are sold in the same year, it is difficult to determine the optimal designation given future changes in the value of the property retained. Therefore, in some situations — particularly when the property retained may experience significant future appreciation — it may make sense to forgo the principal residence claim and incur current tax to achieve higher tax savings in the future. On the other hand, to the extent that a principal residence claim now will save current tax and defer a (potentially higher) tax liability until a future sale (or deemed disposition at death), the time value of money is another important consideration.

For instance, consider the following example where a family owns a house in the city and a cottage in the country, both of which are sold in the same year. While it may be possible to claim the principal residence exemption on either the house or the cottage, it will not be possible to claim the exemption on both properties for all years, since it is available on only one property for each year of ownership for each family unit (after 1981). As such, because the cottage and house have both been owned for many years simultaneously, it will not be possible to fully shelter the capital gain on both the house and cottage. As described in the previous section, the principal residence exemption is made pursuant to a designation in the year of sale/disposition and the amount of capital gains sheltered will depend on a formula which prorates the number of years of designation versus the number of years of ownership of the qualifying property.

Example: Jim and Jennifer, who have been residents of Canada for tax purposes their entire lives, purchased a home in 2011 for $100,000 which they lived in until they sold it in 2020 for $200,000. Its value was determined to be $180,000 in 2016, although as demonstrated below this value is not relevant to the analysis.

Jim and Jennifer subsequently purchase a cottage 5 years later, in 2016 for $100,000, which was used for personal use during the summers until it was sold in 2020 for $160,000.

Timeline for Purchase/Sale of Properties					
2011	2016	2020	Gain on Sale	Number of Years Owned	Average Gain/Year
House					
$100,000 (purchase price)	$180,000 (value)	$200,000 (sold)	$100,000	10	$10,000
Cottage					
—	$100,000 (purchase price)	$160,000 (sold)	$60,000	5	$12,000

For illustrative purposes only.

Since the cottage has the higher average gain per year, the use of the principal residence exemption is optimized by claiming it for each year that the cottage was owned (2016 to 2020) and by claiming it on the house for all other years, as follows:

Capital Gain on Sale of Cottage

Proceeds:	$160,000
Adjusted Cost Base:	$100,000
Capital Gain:	$60,000

Principal Residence Exemption Claim:
A × (B ÷ C)

A is the taxpayer's gain otherwise determined = $60,000.
B is 1 + 4[10] (i.e., the number of years after acquisition for which the property is designated as the taxpayer's principal residence) = 5.
C is the number of years after acquisition in which property was owned = 5.

$60,000 x (5/5) = $60,000.

This claim is equal to the amount of the capital gain on sale which fully shelters it from taxation.

For illustrative purposes only.

Capital Gain on Sale of House

Proceeds:	$200,000
Adjusted Cost Base:	$100,000
Capital Gain:	$100,000

Principal Residence Exemption Claim:
A × (B ÷ C)

A is the taxpayer's gain otherwise determined = $100,000
B 1 + 6[10] (i.e., the number of years after acquisition for which the property is designated as the taxpayer's principal residence, excluding those years where the cottage was designated as the principal residence) = 7.
C is the number of years after acquisition in which property was owned = 10

$100,000 x (7/10) = $70,000.

This leaves a $30,000 capital gain on sale of the house subject to taxation.

For illustrative purposes only.

This optimal claim will fully shelter the capital gain on the cottage and over half of the capital gain on the house. However, it is important to note that this formula does not provide the result that it is the capital gain on the house, up to the point that the cottage was acquired and designated as the family unit's principal residence (i.e., the $80,000 growth in value of the house from purchase to 2016), that is sheltered by the principal residence exemption, leaving the subsequent growth on the house after 2016 fully exposed to taxation. Rather, it is a proration over the entire period of ownership of the property (which will lead to a more or less beneficial result depending on the specific fact pattern).

The facts of the example provide a simple calculation to determine the optimal claim for the exemption, since both the house and cottage were sold in the same year. However, a more common scenario where two or more personal use properties are owned, involves a sale of only one property in a particular year.

For example, consider another scenario where a retired couple have sold their house to move into their cottage and intend to claim the principal residence exemption now on the sale of the house. As noted previously, while it may be possible to claim the principal residence exemption on the cottage when it is eventually sold/disposed, this claim will be significantly restricted by any claim made on the house when it is sold now, since the principal residence exemption is available on only one property for each year of ownership for each family unit (after 1981). As such, where the cottage and house have both been owned for many years simultaneously, it will not be possible to fully shelter the capital gain on both the house and cottage on an eventual sale (or at death).

In addition, if the cottage is not sold now, this formula will not provide the result that it is only the future gain on the cottage that will be sheltered by the principal residence exemption on a future disposition, or that the growth thus far on the cottage is fully exposed to taxation. Rather, it is a proration over the entire period of ownership of the property. In these cases, while the average capital gain per year of ownership can assist in determining the optimal claim — since the sale of one property forces a decision on whether or not to claim the principal residence exemption now — some foresight into the potential future appreciation (or depreciation) of the property retained will be necessary. In particular, it will be necessary to consider the trade-off between saving tax now by fully claiming the exemption on the property sold — while exposing the property retained to future taxation — versus the decision to forego a principal residence claim now, resulting in current tax to potentially save (higher) taxes in the future, in light of the expected timelines and amounts involved.

Conclusion

Most Canadians recognize the principal residence exemption as one of the most important tax breaks available to them. However, in many situations — such as when a family owns multiple residences, or a trust is involved, the change in the use of a residence from personal to income-producing (or vice-versa), or a marriage breakdown — the optimal use of the principal residence exemption is somewhat more complicated. Accordingly, you should consult with your tax professional for assistance in your personal situation.

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Please speak with your BMO financial professional for further information.

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[1] Or a leasehold interest in a housing unit or a share of the capital stock of a co-operative housing corporation you acquire only to get the right to inhabit a housing unit owned by that corporation.

[2] Note that for years prior to 1982, it was possible for both spouses to each designate a separately-owned property as their principal residence. Transitional rules exist for properties disposed that were held continuously since 1981. If this scenario applies to you, please consult with your tax advisor for assistance as these rules are complex.

[3] On a related note, it will be critical to clarify the entitlements to (and tax implications of) the principal residence exemption in the separation or divorce agreement since the future principal residence claim on any property owned during marriage (or common-law partnership) could be impacted by any principal residence claims made during the marriage or a subsequent claim by the other (former) spouse/common-law partner.

[4] Does not apply to Quebec as the concept of joint ownership with right of survivorship does not exist in this Civil law province.

[5] The amendments to the Income Tax Act restricting the availability of the principal residence exemption ("PRE") to only certain personal trusts after 2016 has the effect of disallowing the PRE from being utilized by all family trusts, whether discretionary or non-discretionary, inter-vivos or testamentary. Only the following types of personal trusts are eligible, as taxpayers, to utilize the PRE ("Qualifying Trusts"):

1. Alter Ego Trust (settlor 65 or older);
2. Joint Spousal/Partner Trust (settlor/contributor 65 or older);
3. Self-Benefit Trust (settlor any age);
4. Spousal/Partner Trust (settlor/testator any age);
5. Qualified Disability Trust ("QDT") for a named "electing beneficiary; and
6. Trust for a minor child whose parents are deceased.

With respect to the first four types of trust, once the settlor and/or the surviving spouse is/are no longer alive, the trust will no longer qualify for the PRE. In the fifth type of trust referred to, in order for a QDT to utilize the PRE, the electing beneficiary must be eligible to receive the Disability Tax Credit in the relevant taxation years. With respect to the sixth type of trust referred to, once the minor child attains age of majority, that trust will constitute a family trust and no longer be a Qualifying Trust for purposes of the PRE. This means that where a trust is created in a Will to hold a home for the benefit of minor children, once the youngest living child attains the age of majority, it may be prudent for the trustee to "roll out" the home from the trust to one of the capital beneficiaries residing in the home who would then be able to use the PRE when it is sold in the future.

[6] If the property is a depreciable property, there may also be other tax implications involving a capital cost allowance ("CCA"). Please consult with your tax advisor for assistance.

[7] Although only one property can be designated as a principal residence for a particular tax year, the tax rules recognize that two residences may be owned in the same year; for example, where one residence is sold and another acquired in the same year. The effect of the "one plus" in variable B of the formula is to treat both properties as a principal residence in the year, even though only one of them may be designated as such for that year. However, recently-introduced tax legislation, which applies to dispositions after October 2, 2016, excludes this "one plus" rule where the taxpayer was not resident in Canada for tax purposes in the year the property was acquired.

[8] For Quebec tax purposes, the relevant form is TP-274 which should be filed in the year a property designated as a principal residence is disposed, regardless of whether the principal residence claim completely eliminates any capital gain for Quebec tax purposes.

[9] A related measure would provide the CRA with authority to assess taxpayers, beyond the normal assessment limitation period for a tax year, in respect of a disposition of real estate by the taxpayer, in cases where the disposition was not reported in the taxpayer's tax return for the year in which the sale or disposition occurs.

[10] The "one-plus" in variable B of the formula reduces by one year the number of years necessary to claim the cottage as the principal residence, thereby increasing the number of years that the house can be claimed as the principal residence.

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