Hold the housewarming party: Three FHSA considerations before making a down payment

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The First Home Savings Account (FHSA) emerged as a federal policy response to the growing housing affordability challenges faced by first time home buyers, particularly younger Canadians. Legislation establishing the FHSA received royal assent in late 2022, formally embedding the account into Canada's registered savings framework.

Since its launch, the FHSA has been administered by the Canada Revenue Agency (CRA) who has provided guidance via interpretive updates and technical clarifications. A review of these interpretive documents provides insight into some of the planning that can be considered when leveraging the tax-free nature of the FHSA.

Previous BLG articles relevant to the subject of FHSAs include Canada's First Home Savings Account and Mr. Grenon's legendary RRSP and its implications for Registered Plan Trustees.

1. Combination with Home Buyers' Plan (HBP)

The FHSA was first introduced in the 2022 federal budget and included FHSAs as a measure of supporting first-time home buyers and to encourage tax-free savings for a down payment on a newly purchased home.

The original draft income tax legislation (August 9, 2022), provided that although the HBP would continue to be available, an individual could not utilize both the HBP and the FHSA for the same purchase. This effectively resulted in a taxpayer having to make a choice as to which approach would be best for their particular circumstances.[1] Later legislative amendments removed those restrictions, which no longer appear in the *Income Tax Act* (ITA).[2]

Under the currently enacted version of the legislation an individual can withdraw amounts under both the HBP and FHSA for the same home purchase. This intention has been made clear in CRA Doc No 2023-0965261E5-T (unofficial translation), in which the CRA acknowledges:

> Parliament's intent was to allow an individual to benefit from both the FHSA and the HBP for the same qualifying home. When the FHSA measures were

> announced in the 2022 Budget, it was announced that it would not be possible for an individual to make both a FHSA withdrawal and a Registered Retirement Savings Plan (RRSP) withdrawal under the HBP for the acquisition of the same qualifying home. However, this restriction has been dropped and does not appear in the Act.[3]

The revised FHSA framework is better aligned with its core objective: giving first-time home buyers access to more tax-free funds, while also offering flexibility through additional tax-deductible contributions.

2. Double deduction strategy

The ability to access both the HBP and the FHSA raises a unique situation where a double tax deduction can be utilized. More specifically, a taxpayer can withdraw funds from an RRSP under the HBP, contribute those same funds to an FHSA (subject to FHSA contribution limits and conditions), and then make a qualifying FHSA withdrawal tax-free to purchase a home. The funds contributed to the RRSP receive a deduction when they are first contributed to the RRSP, and those same funds when withdrawn under the HBP and deposited into an FHSA will be eligible for another deduction. The individual could then withdraw these amounts from his or her FHSA tax-free for the purpose of acquiring a qualifying home, subject to satisfying conditions under the ITA.[4]

The CRA has confirmed the viability of this strategy within CRA Views Doc 2023-0965261E5-T, which states (translated):

> It is also possible for an individual to use amounts withdrawn from his or her RRSP under the HBP to contribute these amounts to a FHSA when all the conditions for the application of the HBP and the FHSA are otherwise met. In such a case, the individual could then withdraw these amounts from his or her FHSA for the purpose of acquiring the qualifying home, provided that all the conditions are met.[5]

This effectively increases the total pool of tax advantaged capital available for a first home purchase beyond what either program could achieve on its own and allows an additional tax deduction without the need to contribute (or have available cash) to contribute to the FHSA. The FHSA qualifying withdrawal is permanently tax-free but note that HBP repayment obligations remain fully applicable and are not altered by this strategy.

The CRA statements provide comfort for advisors and taxpayers that the double deduction strategy is not abusive, is consistent with the legislative purpose under the ITA and is unlikely to be challenged solely on anti-avoidance grounds if statutory conditions are met.

3. Timing of marriage or common-law partnership

Opening an FHSA

The marital status of a taxpayer at the time of opening or making a qualifying withdrawal under an FHSA is important.

An FHSA generally has a 15-year window for contributions and making a qualifying withdrawal. An individual's marital status can change over the course of the plan, and particularly, a spouse's (or common-law partner's) ownership of a home can affect the tax-free nature of a qualifying withdrawal or eligibility for opening an account.

Individuals who are about to enter into a spousal or common-law relationship should consider opening an FHSA if they qualify, even if they do not have immediate plans to purchase a qualifying home. This is because the home ownership status of a spouse or common law partner will affect FHSA eligibility.

Only a qualifying individual can open an FHSA. A qualifying individual is an individual who is a resident of Canada, at least 18 years of age and a first-time home buyer. Specifically, an individual is considered a "first-time home buyer" only if they did not at any time in the current calendar year or the past four calendar years inhabit as a principal place of residence a qualifying home that was owned, whether jointly with another person or otherwise, by the individual or owned by their spouse or common-law partner at the time the FHSA is opened.

The definition of "qualifying individual" prevents an individual from opening an FHSA after they have entered into a spousal or common-law relationship if their spouse or common-law partner already owns a housing unit, regardless of whether that individual has any ownership interest in that housing unit.

It is therefore advantageous to open an FHSA before this time as the holder of an FHSA can later roll their FHSA into their RRSP tax-free without impacting unused RRSP deduction room or unused FHSA participation room.[6] An individual may transfer property from their FHSA to a RRSP (or Registered Retirement Income Fund (RRIF)) without any immediate tax consequences, as long as it is a direct transfer and there is not an excess FHSA amount.[7]

This effectively allows an additional $40,000 contribution room for an individual's RRSP, so long as they do not make a withdrawal (or qualifying withdrawal) for 15 years. The amounts contributed to the FHSA reduce the taxable income of the individual, similar to an RRSP, which allows an immediate tax-deferral advantage.

Contributing to an FHSA

Opening the account prior to entering into marriage or a common-law relationship does not taint an FHSA account. So long as an individual opened an FHSA before residing with their spouse or common-law partner (in a home owned by the spouse or common-law partner), they can continue to contribute to their FHSA and deduct contributions from their taxable income, reducing the tax paid in the year the deduction is claimed. This offers meaningful upfront tax savings even if the purchase of a qualifying home is not imminent.

Furthermore, an FHSA holder who has entered into a spousal or common law relationship with a homeowner after opening the FHSA can, subject to the limits within the ITA, still make a "qualifying withdrawal" from their FHSA to purchase a housing unit in which both they and their spouse will reside. Contributions and a tax-free qualifying withdrawal can still be made long after an FHSA holder has regularly resided with a

spouse or common-law partner. This approach may be particularly important for young Canadians who are looking to purchase a new home together.

Although this position has not been explicitly confirmed by the CRA, it has been acknowledged that “the “qualifying withdrawal” definition does not consider the home ownership status of the FHSA holder’s spouse or common law partner.”[8] Further, given the context, it would be an absurd result to allow the opening of an FHSA account but then also prevent contributions.

This publication is not legal or financial advice and provides general information only. If you have any questions about the FHSA, please feel free to reach out to your BLG lawyer or any of the key contacts listed below.

The author would like to thank Robert Rizzuti for his contributions to this article.

Footnotes

[1] Canada, Department of Finance Canada, "Backgrounder: Design of the Tax-Free First Home Savings Account".

[2] This was changed in the November 3, 2022, draft, which became the 2022 budget bill #2, as proposed language 146.01 was removed.

[3] CRA, CRA Views, Interpretation -- External, 2023-0965261E5-T, “HBP and FHSA withdrawals” (Unofficial Translation by Thomson Reuters) (May 15, 2023) [CRA Views - Withdrawals].

[4] CRA Views - Withdrawals. See also Form RC725.

[5] CRA Views - Withdrawals.

[6] Canada, Taxes, “Withdrawals and transfers out of your FHSAs” (February 2026).

[7] Note, an FHSA holder is required to complete a direct transfer from an FHSA to a RRSP or RRIF using the prescribed form: Form RC721, Transfer from your FHSA to your FHSA, RRSP or RRIF.

[8] CRA, CRA Views, Interpretation -- External, 2023-0960541E5, “First-time home buyer status” (Unofficial Translation by Thomson Reuters) (April 12, 2023).

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