



Marilyn deRooy,
CA, CFP, TEP, EPC
Director, Advanced Sales
and Marketing
Tax & Estate Planning
STEPUP Team
Empire Life

The Initiative is a monthly case study and information brief for distribution partners of The Empire Life Insurance Company (Empire Life). Details are edited to illustrate relevant financial, tax & estate planning principles, generally using the Federal context. This material is current to the year and month of issue (Vol. 00, No. 00) but is not a legal opinion. Retained professional advice should be engaged in relation to any actual Client matters.

The Sales, Tax, Estate Planning, Underwriting & Product (STEPUP) team provides broker support, including seminar education, advanced concept illustrations & Client case consultations.

Marilyn deRooy, CA, CFP, TEP, EPC is a member of STEPUP. She focuses on legal, tax & estate planning concepts, and guidance for related product strategies.

Ready to discuss estate planning and client wealth strategies that matter to you and to your clients, please contact your Account Manager



Empire Life®

Trusts and Life Insurance

Much has been written on the advantages of using a trust for estate-planning purposes. Although a trust is treated as a vehicle in which to hold property, it is in fact a legal relationship between a settler and one or more trustees, who hold the property for the benefit of the trust beneficiaries.

Where the trust is settled with life insurance proceeds, the insurance contract must be reviewed to ensure that:

- a) The beneficiary designation;
- b) The owner(s) of the life insurance policy; and
- c) The person(s) whose life (lives) is (are) insured;

operate together so that the trust receiving the proceeds meets the definition of “testamentary trust” in the Income Tax Act (“the Act”).

There is no limitation on the uses of testamentary insurance trusts. They are established to hold life insurance proceeds for a variety of reasons, including:

- 1) The deferral of the distribution of insurance proceeds to particular beneficiaries;
- 2) The desire to provide greater protection from creditors than might be available if the proceeds were held directly by the beneficiary; and
- 3) The desire to preserve provincial disability plan payments for a particular beneficiary, where permitted.

A testamentary insurance trust is created by a beneficiary designation, which directs the insurance proceeds to be paid to a trustee, appointed to receive and hold the proceeds for the benefit of certain beneficiaries. The insurance proceeds can flow directly to the appointed trustee thereby bypassing the estate. This has a number of advantages:

- 1) The proceeds are not subject to provincial probate fees or to claims of creditors of the estate and can be paid on a timely basis even where estate litigation involves other assets of the estate;
- 2) Depending on where the designation is made, the trust can be private, outside the purview of the beneficiaries estate; and
- 3) A separate trust is created apart from any estate trusts created in the Will. This gives rise to some tax-planning opportunities because insurance trust that is treated as a separate tax payer will file separate tax returns and may be continued after the windup of the estate.

Trusts and life insurance can be used together to enhance an estate plan. While there are tricks and traps that should be considered, the combination of the two planning tools can produce effective and beneficial results.

