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A newsletter for CLU designation holders focusing on risk management, wealth creation, and preservation.

Tax-Free Transfers of Personally Owned Life Insurance Policies — Part 1

by Joel Campagna

There may be situations where your client owns a life insurance policy and the life insured is another individual (e.g., their business partner, spouse, or child). Your client has died owning this policy and now the ownership of the policy needs to be changed. What are the tax implications of the ownership change and is it possible to transfer the policy to the new owner on a tax-free basis?

A transfer of ownership of an interest in a life insurance policy represents a disposition.[1] A disposition of an interest in a life insurance policy generally refers to any transaction in which the interest is transferred to another party. This includes an absolute assignment of the interest, whether by way of gift or sale. It also includes a transfer of an interest in a policy that occurs on the death of the policyholder where the life insured is someone other than the policyholder. The taxation of an ownership transfer depends on the relationship between the transferor and the transferee.

Subsection 148(7) contains specific rules that will override the general disposition rules discussed above if a policyholder disposes of his or her interest in a policy in the following situations:

1. a gift (either during life or by way of will),
2. a distribution from a corporation,
3. a transfer of an interest by operation of law only to any person (whether or not arm's length), or
4. a transfer of an interest to any person with whom the transferor is not dealing at arm's length.

In general, if subsection 148(7) applies, the proceeds of the disposition (PD) to the transferor and the new adjusted cost basis[2] (ACB) to the recipient are deemed to be equal to the greatest of the ACB, the cash surrender value of the interest in the policy, and the fair market value of consideration given in respect of the transfer. Where the PD exceed the ACB the transferor will realize a policy gain.[3] The policy gain is treated as regular income[4] and not a capital gain.[5]

Tax-Free Rollovers

The *Income Tax Act* (Act) does provide for automatic tax-free rollovers of an interest in a life insurance policy in limited situations. These situations are:

1. transfer to a "child" during life or at death[6] (subsection 148(8)); and
2. transfer to a spouse or common-law partner during life (subsection 148(8.1)) or at death (subsection 148(8.2)).

Where a rollover applies the transferor will be deemed to have disposed of the life insurance policy for PD equal to the ACB of the policy. The recipient will be deemed to have acquired the interest in the policy at a cost equal to those deemed proceeds (i.e., the transferor's ACB).

Let's focus on the first scenario.

Rollover to a Child

As noted above, subsection 148(8) of the Act allows for a tax-free rollover to a "child" when:

1. the policy is transferred for no consideration to the policyholder's child; and
2. the life insured is a child of the policyholder or a child of the transferee.[7]

However, note that the transfer of the policy must be to a child directly. Transfers cannot occur to a trust even where a child may be a beneficiary under the trust and would otherwise qualify under the provisions for the rollover as a child.[8]

But who is considered a child?

The definition is very broad[9] and includes grandchildren, great grandchildren, persons under the age of 19 who are wholly dependent and in the custody of the taxpayer, adopted children, and the spouse or common-law partner of a taxpayer's child (i.e., son-in-law or daughter-in-law).

By way of example, the Act allows a rollover where a grandparent owns the policy, the son of the owner is the life insured, and the son's child is the transferee of the policy.

What about a step-child?

The definition of child may include a step-child or step-grandchild. For example, consider a grandparent with a child who has a step-child. A step-child is considered a child of the step-parent.[10] Since the step-child is a child of the step-parent, the stepchild is considered a child of the grandparent.[11]

What about nieces and nephews?

The definition would not normally include nieces and nephews. However, where the nephew/niece was wholly dependent and under the custody and control of the taxpayer either before the nephew/niece attained the age of 19 years, or in some cases where the nephew/niece was wholly dependent on the taxpayer after the age of 19 years, the definition of child could be met. Meeting the definition of "child" in these cases may be dependent on meeting the definition of "wholly dependent" and will be fact specific.

Death and Marriage Breakdown

For a tax-free rollover to occur, the definition of child must be met at the time of the transfer.

A son-in-law or daughter-in-law continues to be considered a child of the taxpayer even after death of the natural child as long as they were considered a "child" immediately before the death.[12] However, where the marriage breaks down prior to the transfer occurring, the tax-free rollover may not be available.

A step-child will no longer be considered a child of the step-parent after the death of the parent of the step-child if the step-child was at no time wholly dependent on the step-parent and was not adopted in law or fact by the step-parent.[13] This is consistent with the position that the step-child and step-parent would no longer be considered to be related to each other by marriage as the marriage is considered to be dissolved by the death of the parent. As the definition of child is no longer met, a tax-free rollover would not be available.

Why Should My Client Name a Successor Owner?

Naming a successor owner on the life application or while the life insurance policy is in force should be done in situations where the owner and the life insured are different (e.g., parent owning policy on life of child). This important step allows the insurer to quickly transfer the policy when the original policy owner dies. It also means avoiding time consuming and costly administrative steps later.

If a successor owner is not named and the policy is owned by an individual other than the life insured and that individual dies, the policy will go to his or her estate. If a successor owner is named, the policy can be directly transferred to the successor owner without any hassles and, as noted above, it can also result in a tax-free rollover of the policy to a child who is named as the successor owner.

The rollover treatment under subsection 148(8) does not apply to an insurance policy transferred from parent to child by way of the policyholder's will.[14] When the policyholder dies, the policy would first be transferred to the estate and then to the child, resulting in a disposition of the policy. In this case, the deceased policyholder has a disposition of the policy and any policy gain would be taxable in the terminal return. (Note that administrative practices among insurance carriers may differ and T5s may sometimes be issued to the estate instead of the deceased in these circumstances.)

For example, consider the following situation: Dad dies owning a life insurance policy on their adult son. At the time of dad's death, the policy had a CSV of $25,000 and an ACB of $1,000. Dad did not name his son as the successor owner and thus the policy formed part of the residue of dad's estate. Dad's estate will have a policy gain and taxable income of $24,000 to be reported as a result of the transfer.

Naming the child as a successor or contingent owner is a solution to this problem. The Canada Revenue Agency has confirmed that this would qualify for the rollover.[15] Where a successor owner is named, the policy will not fall into the estate, instead it will be transferred to the named successor owner. Where the successor owner is a child as contemplated under subsection 148(8), the rollover provisions will apply provided other requirements of the provision are met. It should be noted that a transfer to a child should be made after the age of 16, when a child is deemed able to deal with a contract of insurance (age 18 in Quebec).

Returning to our example above, if dad had named son as the successor owner of the policy there would have been no policy gain to be reported and the policy would have transferred to son on a tax-free basis.

Generally, naming a successor owner is also beneficial from the perspective of limiting administrative requirements. Where a successor owner is named, a probated or notarial copy of the will is not required, nor are the same number of forms required to be completed, thus saving time and money. As well, since the policy passes directly to the successor owner and does not pass through the estate, it is not subject to creditors of the estate. ©

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[1] *The term "disposition" as it relates to an interest in a life insurance policy is further defined under subsection 148(9) of the* Income Tax Act *(the "Act"), Revised Statutes of Canada 1985, c.1 (5th Supplement) (as amended). Unless otherwise stated, all statutory references are to the Act.*

[2] *Defined in subsection 148(9).*

[3] *Per subsection 148(1).*

[4] *Income inclusion per paragraph 56(1)(j).*

[5] *A policy gain is specifically excluded from being a capital gain per subparagraph 39(1)(a)(iii).*

[6] *As will be discussed later, the transfer at death cannot be via a will.*

[7] *CRA technical interpretation letter #2001-0098185, dated October 17, 2001, confirms that a rollover is not allowed if the policy is transferred to the owner's child and the owner is the insured under the policy.*

[8] *Technical Interpretation Letter #9826715, dated January 19, 1999.*

[9] *Subsection 148(9) defines the term "child" to include the definition found in subsection 70(10). Furthermore, the extended definition of "child" is found in subsection 252(1).*

[10] *Paragraph 252(1)(c) provides that a child includes a child of the taxpayer's (step-parent's) spouse or common-law partner.*

[11] *By virtue of subsection 70(10), which states that a child includes a child of the taxpayer's (grandparent's) child.*

[12] *Paragraph (b.1) of definition of "child" in subsection 70(10).*

[13] *Technical Interpretation #2005-0114721E5.*

[14] *Technical Interpretation letter #9433865, dated February 15, 1995.*

[15] *Technical Interpretation letter #9618075, dated September 3, 1996.*

Budget 2021 — More Spending, Targeted Tax Measures

by Kevin Wark

On April 19, 2021 Finance Minister Chrystia Freeland tabled the Liberal Government's much anticipated 2021 budget (Budget 2021). At a staggering 724 pages, this budget not only attempts to address the current needs of Canadians who are labouring under the third wave of the pandemic but also establishes a number of new government programs, including funding for a national child care program.

Despite much speculation by the media and tax community, Budget 2021 contains no significant personal tax increases, no wealth or estate taxes, or changes to the tax treatment of capital gains, dividends, interest income, or the principal residence exemption. Also, the insurance community can give a collective sigh of relief as there are no changes being proposed to the taxation of exempt life insurance, corporate-owned insurance, or the capital dividend account.

However, there are some fairly significant tax proposals with a particular focus on aggressive tax planning arrangements. Let's examine those proposed tax changes that will be of greatest interest to estate, tax, and insurance advisors and their clients.

Personal Tax Measures

Tax on Luxury Items

Budget 2021 proposes to introduce a tax on the purchase of new luxury cars (with a value more than $100,000), personal planes (with a value more than $100,000) and boats (with a value more than $250,000), effective for purchases made on or after January 1, 2022. The tax amount will be the lesser of 10% of the purchase price (excluding GST/HST and/or provincial sales tax) and

- for luxury cars and personal planes, 20% of the purchase price in excess of $100,000, and
- for boats, 20% of the purchase price in excess of $250,000.

There are a number of exceptions to the vehicles that will be subject to this tax, but generally, the proposed new tax will apply to any personal use vehicle where the purchase price exceeds the noted threshold.

Contributions to Defined Contribution Pension Plans

The *Income Tax Act* currently does not permit defined contribution pension plans (DC plans) to accept

contributions made to correct a contribution error made in a prior taxation year. Budget 2021 proposes that additional contributions will be permitted to an employee account for an under-contribution error made in the preceding five years (there will be a specified dollar limit cap that is yet to be determined).

To the extent that rectification of the error affects the plan member's RRSP contribution room, such corrections will only impact RRSP room on a go-forward basis. The new measures are to be effective in respect of corrections in errors implemented in 2021 and subsequent taxation years, which would mean that errors occurring in 2016 and subsequent taxation years may be rectified in 2021 under the new rules.

Increasing Old Age Security for Canadians Aged 75 and Over

Budget 2021 proposes to provide a $500 *taxable* grant in August 2021 to Old Age Security pensioners who will be age 75 or older as of June 2022. This is unlike the seniors' grant payment made in 2020, which was not taxable. However, this payment will be exempted from the definition of income for purposes of the claw-back under the Guaranteed Income Supplement.

It is also proposed that the maximum benefits payable to Old Age Security pensioners age 75 or older be increased by 10% effective July 1, 2022. This increase will provide additional benefits of $766 to full pensioners in the first year, indexed to inflation. If a taxpayer is receiving higher OAS payments due to a deferral past age 65, the 10% increase will apply to the higher amount.

Business Tax Measures

Immediate Expensing by CCPCs

To continue support for small businesses, Budget 2021 proposes to introduce temporary rules that will permit Canadian-controlled private corporations (CCPC) immediate expensing for "eligible property" (up to a maximum cost of $1.5 million per tax year) acquired on or after April 19, 2021 ("Budget Day") so long as the property becomes available for use before January 1, 2024. This proposal will suspend the capital cost allowance (CCA) "half-year" rule that would otherwise limit the CCA claim on newly acquired property to one-half of the acquisition cost in the first year it became available for use. This proposal works together with other enhanced deductions under the existing CCA rules, including those announced in the 2018 Fall Economic Statement.

Mandatory Disclosure Rules

In an effort to align with international recommendations for mandatory disclosure rules, Budget 2021 is proposing a consultation process that could result in material enhancements to existing reportable transaction rules as discussed below.

Reportable Transactions

Under current tax rules, a transaction is a reportable transaction if it is an "avoidance transaction" (as defined for the purposes of the general anti-avoidance rule) and bears at least <u>two</u> of the following three hallmarks:

- a promoter or tax advisor is entitled to a contingency fee
- a promoter or tax advisor requires confidential protection (i.e., a non-disclosure agreement), and
- the taxpayer receives protection from a failure to achieve the intended tax result, or funding for the defence or dispute of the tax result.

Budget 2021 proposes to amend the rules so that they only require that the transaction bears <u>one</u> of the three hallmarks. The proposal will also amend the definition of "avoidance transaction" for these rules so that it includes a transaction if it is reasonable to conclude that one of the main purposes was to obtain a tax benefit.

In addition, where a taxpayer has a reportable transaction, the timing for reporting a required transaction will be modified. Promoters and tax advisors will generally have the same reporting and filing requirements.

Notifiable Transactions

To assist the Canada Revenue Agency (CRA) in identifying taxpayers who have implemented specific tax schemes, Budget 2021 proposes to add rules for the disclosure of notifiable transactions that will include both transactions the CRA has found to be abusive and transactions of interest.

A taxpayer who enters into a notifiable transaction, or transactions that are substantially similar to a notifiable

transaction, will be required to report the transaction within specified time limits.

The Minister of National Revenue will have the authority to designate a transaction that is a notifiable transaction (with the concurrence of the Minister of Finance). The description of a notifiable transaction will set out details on the fact patterns and outcomes, along with examples, to enable the determination of whether a particular transaction is a notifiable transaction.

Uncertain Tax Treatments

For public corporations, and private corporations that choose to have audited financial statements prepared in accordance with the International Financial Reporting Standards, Budget 2021 proposes a requirement to report particular uncertain tax treatments in a taxation year where certain conditions are met.

For each uncertain tax treatment, the corporation will be required to provide prescribed information such as the amount of tax at issue, a description of the facts, the tax position taken, and whether the uncertainty is with regard to a permanent or temporary tax difference. This disclosure will be due at the same time as the corporation's Canadian income tax return.

Reassessment Period and Penalties

Budget 2021 also proposes that where there is an obligation under the new mandatory disclosure rules, the taxpayer's normal reassessment period will not begin until the taxpayer has made the required disclosure. For taxpayers who do not disclose as required, this means the taxation year will not become statute barred.

In addition, for taxpayers who enter into a reportable or notifiable transaction, there will be potentially significant penalties for a failure to disclose. Promoters and advisors who fail to disclose a reportable or notifiable transaction will similarly be subject to potentially large penalties.

Other Announcements and Measures of Interest

Tax on Unproductive Use of Canadian Housing

Starting in 2023, a new tax will be imposed equal to 1% of the value of Canadian residential real estate owned by non-residents of Canada where such properties are considered vacant or underused. Owners of residential property in Canada who are not Canadian citizens or permanent residents (a "non-resident") will be required to file an annual declaration for each residential property they own. The non-resident will need to report the value of the property and, if applicable, claim an exemption from the tax based on a qualifying use of the property. Failure to file the declaration will result in interest, penalties, and an unlimited assessment period. Finance Canada plans to release a backgrounder and engage in a consultation with stakeholders before finalizing the application of this tax.

Calculation of Disbursement Quotas for Charities

As one of the measures to address the growing funding needs for Canada's charities, Budget 2021 proposes to launch a public consultation with charities on increasing the disbursement quota, with the goal of having new rules in place beginning in 2022. It was noted that Canada's charitable foundations hold more than $85 billion in long-term investments (i.e., not being deployed on charitable activities), which has been growing substantially over the past number of years at a pace greater than what is being deployed.

Strengthening Beneficial Ownership Reporting

Building on the transparency rules that have been added to, or proposed for, the federal and a number of provincial corporate laws, Budget 2021 proposes to put in place a publicly accessible corporate beneficial ownership registry by 2025.

Status of Prior Announced Measures[1]

Budget 2021 also indicates that the government still plans to move ahead with the following:

- Consultations on the general anti-avoidance rule (GAAR) announced in the 2020 Fall Economic Statement
- The income tax measures relating to Registered Disability Savings Plans and employee stock options announced in the 2020 Fall Economic Statement
- Measures announced in Budget 2018 to facilitate the conversion of Health and Welfare Trusts to Employee Life and Health Trusts (ELHTs)
- Legislation released on July 30, 2019 relating to advanced life deferred annuities (ALDAs) and variable payment life annuities (VPLAs), and
- Income tax measures announced in Budget 2018 to implement enhanced reporting requirements for certain trusts to provide information on an annual basis.

However, the small business community will no doubt be disappointed that Budget 2021 does not contain any changes to section 84.1 of the Act as it applies to family business transfers. This tax provision has been a major impediment to the successful transition of small businesses within a family — by either denying the business owner access to capital gains treatment on the business transfer (including denial of the capital gains exemption), or alternatively, forcing the new family owners to assume potentially higher levels of debt to pay off the purchase price.

Despite there being no commentary on section 84.1 in the budget documents, senior Finance officials did indicate in a post-budget call that this issue is still under consideration. CALU plans to continue its advocacy efforts to change section 84.1 to support the transition of small businesses to the next generation of family owners.

While it is unlikely this budget will topple the government, it does set the stage for a possible federal election in the fall. Paying the costs of pandemic spending and newly announced initiatives in Budget 2021 will likely be a chore left for the next majority government. ©

Kevin Wark is a CALU tax advisor. This article is based on a CALU Special Report authored by Kevin Wark and Angela Ross, PwC LLP (April 20, 2021) and is being republished with CALU's permission.

[1] On April 30, 2021 Bill C-30 - Budget Implementation Bill No. 1 (BIA No. 1) was introduced in the House of Commons and received first reading. BIA No. 1 includes final legislation for a number of outstanding tax proposals including the ALDA and VPLA legislation; limits on stock option deductions; the mutual fund "allocation to redeemer rules"; relief for RDSP beneficiaries who no longer qualify for the disability tax credit; individual pension plan transfer restrictions and the announced 10% increase to OAS benefits in 2022.

CRA's Views on Charitable Remainder Trusts

by Elena Hoffstein and Brittany Sud

Charitable remainder trusts have been popular in the U.S. for some time but not as widely used in Canada as a result of differences in our tax regime. A charitable remainder trust involves an individual who wishes to make a gift to charity, but only following the death of the life tenant of a trust, all while benefiting from a donation tax credit at the time that he or she transfers the gifted property to the trust.

Charitable remainder trusts work well in the *inter vivos* (i.e., during one's lifetime) context, but have posed issues in recent years in the testamentary (i.e., on death) context as a result of changes to the laws on testamentary charitable giving. Let's look at an overview of charitable remainder trusts (CRTs), the issues surrounding testamentary CRTs, and Canada Revenue Agency's (CRA) views on the matter.

CRTs: What Are They?

CRTs can be a useful charitable giving tool. A common example of a CRT in the *inter vivos* context is where an individual establishes an alter ego trust,[1] whereby property is transferred on a tax-deferred basis to the trust for the benefit of the individual during his or her lifetime and for a charity's ultimate benefit. The individual is the life tenant and is entitled to all of the income of the trust, but has no right to the capital of the trust. The charity is the capital beneficiary, meaning it is entitled to the capital of the trust on the death of the life tenant. The charity issues a donation receipt for the fair market value of the residual interest at the time the property is transferred to the trust. The charitable donation, for donation tax purposes, is the net present value of the remainder interest in the trust. Factors, such as the age of the life tenant, the fair market value of the property transferred to the CRT, and mortality/actuarial tables for the life tenant, are considered in order to determine the value of the remainder interest. Actuarial and valuation reports will be required for valuation purposes. The charitable donation tax receipt can be used to shelter tax on the individual's income for the year the property is transferred to the trust and/or against the individual's income in other years where permitted.

Testamentary CRTs Prior to the Graduated Rate Estate

Prior to the recent changes to the testamentary charitable giving rules, testamentary CRTs worked in a similar way. The trust was created in the will of an individual for the benefit of another person during his or her lifetime, with no right to encroach on the capital, and on that person's death, the capital was transferred to a charity. Charitable gifts made through a will were deemed to be gifts made by the individual immediately prior to his or her death. The charity would issue a donation receipt at the time the trust was established following the death of the testator, so that the estate of the deceased individual could apply the donation tax credit to the deceased's terminal income tax return in the year of death, thereby reducing taxes triggered on the deemed disposition on death, or to the deceased's tax return in the immediately preceding year. This worked well because the tax liability from the deemed disposition was matched with the donation tax credit.

Testamentary Charitable Giving and the Graduated Rate Estate

In 2016, the rules changed such that now a charitable donation made by an individual through his or her will is deemed to have been made by the estate at the time the gift is transferred to the charity. The value of the gift is tied to the fair market value of the gift at the time of the donation (rather than the value immediately prior to death). The estate is able to carry forward the unused tax credit for five years from the date of death, which could not previously be done. The tax credit cannot be used in the year of death unless the estate is a "graduated rate estate"[2] (GRE).

There are additional timing advantages if the gift is made during the 36 months the estate qualified as a GRE, or within the next two years, provided the estate would have been a GRE except for the expiry of the 36-month GRE period. In such circumstances, the donation tax credit can be claimed (i) in the year of death of the deceased (which can be used to reduce the tax liability from the deemed disposition on death); (ii) in the year immediately preceding the year of death; (iii) by the GRE in the year the donation is made or any prior year of the GRE; or (iv) in any of the five tax years of the estate following the gift.

CRA's Views on Testamentary CRTs

If the charitable gift made through a will is deemed to have been made by the estate at the time the gift is transferred to the charity, then a question arises whether a donation of a capital interest in a CRT created by a will to a qualified donee[3] (generally, a registered charity), which is made by the deceased individual's GRE, is still eligible for the donation tax credit and whether subsection 118.1(5.1) of the *Income Tax Act* will apply to the gift. If subsection 118.1(5.1) of the *Income Tax Act* applies, then the flexible rules that permit GREs to use the donation tax credit in prior years will apply.

CRA was asked this exact question and provided its response in technical interpretation 2016-0625841E5. Under subsection 118.1(5.1) of the *Income Tax Act*, one of the requirements is that the subject of the gift made by an individual's GRE is property that was acquired by the estate on and as a consequence of the death or is property that was substituted for that property. CRA

concluded that the subject of the gift is the equitable interest in the testamentary CRT and that the equitable interest cannot have been acquired by the estate on and as a consequence of the deceased individual's death. Accordingly, subsection 118.1(5.1) of the *Income Tax Act* does not apply.

We learned from this response that CRA is of the view that a testamentary CRT is not a gift by a GRE. As a result, no donation tax credit can be claimed in the year of death or the year prior to death.

More recently, CRA was asked whether the equitable interest in the CRT could be characterized as property that is substituted for the remainder interest in the property owned by the deceased at the time of death that is received by the GRE on and as a consequence of the death of the individual. If this argument was accepted, the rules that permit the GRE to use the donation tax credit in prior years would apply. In technical interpretation 2017-0734261E5, CRA provided its views on the application of subsection 118.1(5.1) of the *Income Tax Act* to this issue.

CRA explained that an equitable interest in a trust is created upon the transfer of any property to a trust with the requirement that the property be distributed to a beneficiary at some future date (i.e., when an income interest of another person ends). It has been CRA's longstanding view that the subject of a gift to the qualified donee is not the property transferred to

the CRT, but the equitable interest in the CRT. More particularly, the CRT receives the property and the qualified donee receives an interest in the CRT. In order to determine whether an equitable interest in a CRT to which the property is transferred is considered to be substituted property for the property received by the GRE on and as a consequence of the death, CRA considered the ordinary meaning of the term "substituted property" and the extended meaning of substituted property in subsection 248(5) of the *Income Tax Act*.

The Canadian Oxford Dictionary (2001) defines "substitute" as follows:

> *"… A thing that is or may be used in place of another, often to serve the same function but with a slightly different effect … replace (a person or thing) with another…"*

Black's Law Dictionary (1999) defines "substitution" as follows:

> *"… the property by which one person or thing takes the place of another person or thing."*

Subsection 248(5)(a) of the *Income Tax Act* provides that where there are multiple substitutions, the final property held will be considered to be substituted for the original property held.

CRA concluded that the equitable interest in the CRT is created as a result of the transfer of property to the CRT by the GRE. The gift of the equitable interest in the CRT is considered to have been made to the qualified donee when the property is transferred to the CRT, provided that the equitable interest in the CRT vests with the qualified donee at that time (and all other requirements are met). The GRE does not receive the equitable interest in the CRT in return for the transfer. CRA further explains that the property received by the GRE on and as a consequence of the death of the individual is not substituted property for or replaced by the equitable interest in the CRT received by the qualified donee. As a result, the equitable interest in the CRT is not property received by the GRE on and as a consequence of the death, or property substituted for that property. Therefore, subsection 118.1(5.1) does not apply.

However, the GRE may receive a donation receipt for the gift of the equitable interest in the CRT to a qualified donee and use the donation receipt in the year that the gift is made or any of the five following years. ©

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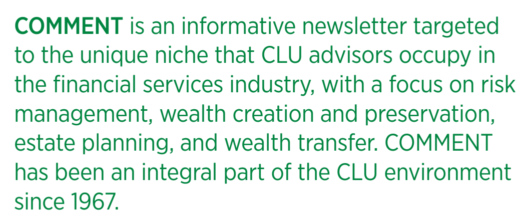
[1] *An alter ego trust is a special type of trust permitted under subsection 73(1.02) of the* Income Tax Act.

[2] *"Graduated rate estate" ("GRE") is defined in subsection 248(1) of the* Income Tax Act *to mean the estate that arose on and as a consequence of an individual's death if:*

- *that time is no more than 36 months after the individual's death,*
- *the estate is at that time a testamentary trust,*
- *the individual's Social Insurance Number (or if the individual had not before the death been assigned a Social Insurance Number, such other information as is acceptable to the Minister) is provided in the estate's return of income under Part I for the taxation year that includes that time and for each of its earlier taxation years that ended after 2015,*
- *the estate designates itself as the graduated rate estate of the individual in its return of income under Part I for its first taxation year that ends after 2015, and*
- *no other estate designates itself as the graduated rate estate of the individual in a return of income under Part I for a taxation year that ends after 2015.*

[3] *Under the* Income Tax Act, *qualified donees are organizations that can issue official donation receipts for gifts they receive from individuals and corporations.*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