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Exemptions from the Trust Reporting rules – What is the value of Life insurance?

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We know that trust reporting can be a touchy subject particularly for practitioners who lived through the 2023 and 2024 tax filing seasons. We will not revisit the trauma. For those who want to go there read the Taxpayers' Ombudsperson report "Unintended consequences: Bare Trusts" published on March 5, 2025 (https://www.canada.ca/en/taxpayers-ombudsperson/programs/reports-publications/special-reports/unintended-consequences-bare-trusts.html). We will touch on one issue specific to life insurance and certain exemptions under the trust reporting rules.

In general

New reporting requirements for trusts were introduced "as part of Canada's international commitment to the transparency of beneficial ownership information" and "to ensure the effectiveness and integrity of the Canadian tax system." Affected trusts are required to file a T3 return and a Schedule 15 (Beneficial Ownership Information of a Trust) with the CRA every year. Many trusts (including bare trusts) that did not have to file, now have to or will have to file a T3 return. (Prior to the introduction of the reporting requirements, a trust that did not earn income, dispose of capital property, or make distributions of income or capital in a year were generally not required to file an annual return.) Specific information (name, address, date of birth, country of residence, tax identification number) on all trustees, settlors, beneficiaries and controlling persons who can exert influence over trustee decisions is required to be reported.

Original $50,000 exemption

Under paragraph 150(1.2)(b) of the Act, there is an exemption from reporting for trusts with a total fair market value (FMV) not exceeding $50,000 throughout the year, if the only assets held by the trust are certain listed assets. Life insurance (other than a segregated fund) is not listed.

August 12, 2024 proposed amendments

A draft technical bill proposed amendments to the $50,000 exemption making it a blanket exemption without any specific listed assets required to be held by the trust. It also introduced an additional exemption (in proposed paragraph 150(1.2)(b.1)) for a FMV of $250,000 for a broader list of assets. Each trustee must be an individual and each beneficiary must be an individual related to each trustee. Life insurance (other than a segregated fund) was not listed. This draft legislation was never introduced in the last session of Parliament.

August 15, 2025 draft legislation

In August (Summer reading of the legislative kind – Tompkins Insurance) further draft legislation was released including refinements and clarifications to the $250,000 exemption. It still does not list life insurance (other than a segregated fund). Proposed subsection 150(1.32) also clarifies that a related person includes an aunt, uncle, niece or nephew, and a person is related to themself. The $50,000 exemption remains a blanket exemption with no specific property list.

The Problem

The FMV of a life insurance policy is not a simple matter. It is a question of fact in each circumstance. The CRA has provided guidance regarding what factors it sees as relevant in determining the FMV of a life insurance policy in Information Circular 89-3 “Policy Statement on Business Equity Valuation” at paragraph 40. The list of factors includes: cash surrender value (CSV); policy loan value; face value or amount; the state of health of the life insured or their life expectancy; conversion privileges; other policy terms and riders; and the replacement value of the policy.

Even term insurance or non-cash value life insurance can have a FMV that is significant. A valuation professional or independent actuary may be engaged to provide an opinion.

Onerous to say the least.

Advocacy

Both the STEP and CALU submissions on the August 15, 2025 draft legislation have asked that life insurance be listed property for purposes of the $250,000 exemption and that a value deeming rule be added to peg the FMV for trust reporting purposes to the CSV of a policy.

We’ll see if this will change things.

FOOTNOTE:

Should you wish to discuss this or any other TOMPKINSights article, please contact
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