

## Legislative matters – Matter to STEP

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Since our last legislative update in early March, some further developments have occurred. Many of these developments have been a result of submissions made by the STEP Tax Technical Committee, of which I am a member.

### **Amendments to subsection 164(6) are now law**

Bill C-15 received Royal assent on March 26, 2026, and is now law. It contained the technical amendment that extends the timeframe to complete redemption and loss carry-back planning from the first taxation year of the graduated rate estate (GRE) to the first three taxation years of the GRE for deaths on or after August 12, 2024.

For the STEP submission that brought about this change see: [https://step.ca/downloads/memberservices/TTC%202024-06-21%20Submission%20-%20Requesting%20Technical%20Amendment%20to%20ITA%20Subsection%20164\(6\).pdf](https://step.ca/downloads/memberservices/TTC%202024-06-21%20Submission%20-%20Requesting%20Technical%20Amendment%20to%20ITA%20Subsection%20164(6).pdf)

For our summary of the measure see: [Technical amendment expands the time frame for post-mortem capital loss carry-back planning – Tompkins Insurance.](#)

A related amendment to the 50% stop-loss rule also extends the period of its application to the same timeframe.

This change will encourage more use of redemption and capital loss carry-back planning since estate trustees will now have more time to consider the options before getting timed out. Life insurance credits the CDA for the death benefit received by a private corporation less the policy's adjusted cost basis. Capital dividends can be used during redemption and loss carry-back planning (subject to the 50% stop-loss rule) and at the same time, provide the liquidity to pay tax arising from the deemed disposition of private company shares on death.

## Pipeline planning and non-resident beneficiaries

Also, in Bill C-15, were amendments to the trust look-through rule in paragraph 212.1(6)(b) effective for deaths on or after February 26, 2018. These amendments exempt GREs from the application of subsection 212.1(1) which would otherwise deem a dividend to occur (and subject it to withholding tax) in respect of distributions to non-resident beneficiaries. These amendments clear the way for post-mortem pipeline planning involving non-resident beneficiaries of a GRE.

This is good news but there still can be issues.

The GRE (three taxation year) period may not be enough time to complete pipeline transactions where there is protracted estate litigation. Also, care must be taken to ensure the GRE status of the estate is not lost. For example, loans by beneficiaries of the estate to pay expenses that are not repaid within 12 months can cause the loss of “testamentary trust” status, thus losing GRE status. A STEP submission advocating for a legislative amendment in respect of this issue was made. It is a very good read, outlining the realities of estate administration and the often-extended timeframes over which this can occur. (See: [https://step.ca/downloads/marketing/TTC-2025\\_11\\_03\\_Subsection-108\\_1\\_FINAL.pdf](https://step.ca/downloads/marketing/TTC-2025_11_03_Subsection-108_1_FINAL.pdf)).

As well, this fix does not apply where the shares are held by a life interest trust on death. STEP has also made a submission requesting that the relief provided in 212.1(6)(b) also apply to life interest trusts. (See: [https://step.ca/downloads/marketing/TTC\\_2026\\_01\\_05\\_Support\\_for\\_Comfort\\_Letter\\_Request%E2%80%93Extension\\_of\\_212.1\(6\)\(b\)Exception\\_to\\_Life\\_Interest\\_Trusts.pdf](https://step.ca/downloads/marketing/TTC_2026_01_05_Support_for_Comfort_Letter_Request%E2%80%93Extension_of_212.1(6)(b)Exception_to_Life_Interest_Trusts.pdf)).

Post-mortem pipeline planning is a way that double tax on death – tax on the deemed disposition on death of private company shares and subsequent distributions to estate beneficiaries – can be prevented. Life insurance can pair with pipeline planning to provide liquidity to pay the tax that remains as a result of death and can further integrate with post-mortem planning.

## Amendment to subsection 104(5.8) – 21-year rule anti-avoidance provision

Bill C-31, Budget 2025 Implementation Act, No. 2 (first reading May 6, 2026) contains a proposed amendment to the trust deemed disposition anti-avoidance rule that broadens its application beyond direct trust-to-trust transfers. The current wording is narrower than the original proposal announced in the November 4, 2025 Federal Budget.

The STEP submission (discussed in [An update on legislation in progress and draft legislation not yet introduced – Tompkins Insurance](#)) proved to be influential. The anti-avoidance rule will now more limitedly apply to tax-deferred capital distributions to a beneficiary where an interest in the beneficiary is held directly or indirectly by another trust at the relevant time (i.e., the time of the transfer). So, a roll out from a trust to a capital beneficiary followed by a subsequent settlement by that beneficiary of a new trust (for example on a refreeze or planning with an alter ego or joint partner trust) would not be caught. But, rolling out property to a corporate beneficiary of a trust that is owned by another trust, would be caught.

## Other legislative items

Bill C-30, the Spring Economic Update 2026 Implementation Act (second reading on May 26, 2026) made the \$10 million super-exemption on sale of business to an Employee Ownership Trust permanent. It remains to be seen whether this will be enough to spur on greater use of this business succession option. See [Summer reading of the legislative kind – Tompkins Insurance](#) for a discussion of the super-exemption.

## Expect a flurry of activity before summer recess

The last sitting of the House of Commons is on June 19, and for the Senate, on June 23. Expect to see action on some of these matters over the next month.

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