Corporate shared ownership arrangements

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RBC Insurance

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Introduction

An exempt life insurance policy is a unique financial product that allows for the tax-deferred growth of the policy's fund value as well as the payment of a tax-free death benefit. These features makes it possible for some novel planning opportunities for shareholders of private corporations.

For example, there may be circumstances where a private corporation requires insurance on the life of the shareholder, while at the same time the shareholder has savings or is expecting an annual surplus that may also be used to pay premiums. Alternatively, it may be the shareholder who is looking for insurance coverage, and the private corporation has surplus capital available.

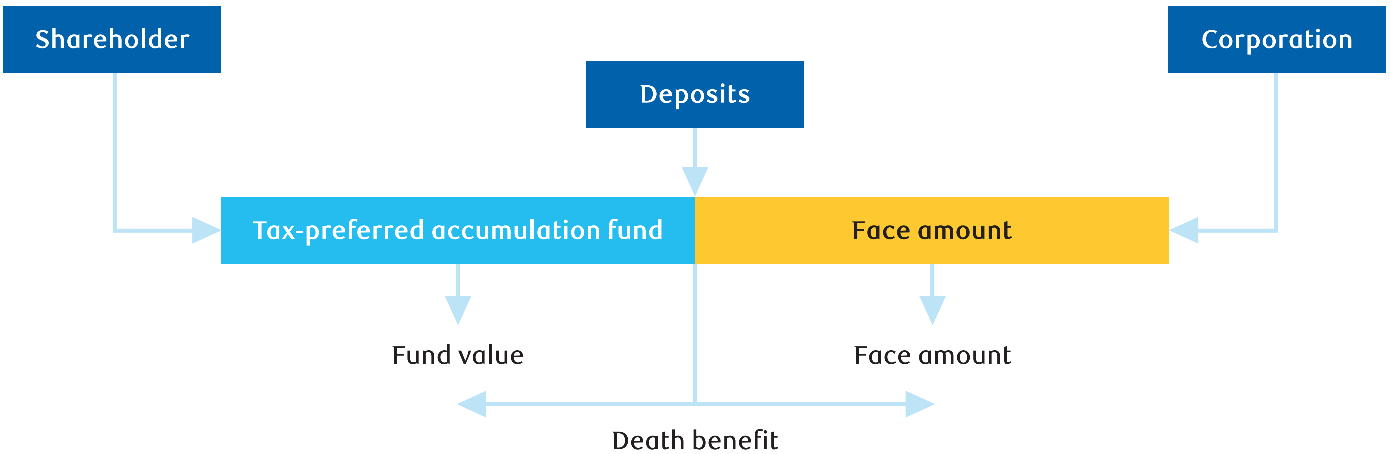
This provides an opportunity for the shareholder and the private corporation to jointly own an exempt life insurance policy on the life of the shareholder, and share the cost and benefits under the policy. As part of this arrangement, the parties would enter into a shared ownership agreement that establishes their respective rights and obligations in terms of the ownership of the policy benefits and the funding of the policy. The insurer would not be a party to this agreement because it would be a private agreement between two co-owners: the shareholder and the corporation.

The fund value[1] owner would be entitled to the cash surrender value of the policy on the surrender of the policy and typically would be entitled to make cash withdrawals or borrow against this amount. On the death of the life insured, the death benefit owner would be entitled to the original face amount of the policy, and the fund value portion of the death benefit would be payable to the fund value owner. These types of arrangements are commonly referred to as split dollar or shared ownership arrangements.

This guide reviews how a shared ownership arrangement may be structured, the benefits of such arrangement and certain associated tax and legal considerations.

Shared ownership – How does it work?

A shared ownership arrangement can be potentially beneficial in a situation where a shareholder or a private corporation requires permanent life insurance coverage, and the other party has surplus capital available that may also be used to pay premiums of the policy. The diagram below provides an overview of how this arrangement may be structured, assuming the shareholder is the fund value owner, and the corporation is the death benefit owner:



The following examples demonstrate where a shared ownership arrangement might be used:

Example 1

A and B are equal shareholders in Opco. Opco would like to acquire $1 million of permanent life insurance coverage on the lives of A and B to fund the repurchase of shares on the death of either shareholder. A has surplus funds available. Opco and A agree to jointly acquire a $1 million policy on A's life. The shared ownership agreement specifies that Opco is to pay the equivalent of the level mortality costs under the policy and permits A to make additional deposits subject to the exempt test limits.

Upon A's death, Opco will receive $1 million of the policy's death benefit, and A's estate will be entitled to any death benefit associated with the fund value of the policy. Let's assume that A dies 15 years later, when the death benefit attributable to the policy's fund value is equal to $250,000. Opco will receive the face amount of $1 million tax-free, and A's estate[2] (or designated beneficiaries) will receive a tax-free death benefit of $250,000.

Example 2

B is a minority shareholder in Opco. The remaining shares in Opco are owned by Holdco, which is controlled by C (B's father-in-law). B wishes to acquire a $1 million life insurance policy to take care of his family and is considering the purchase of a Term to 65 insurance policy for this purpose. C suggests that Holdco and B jointly acquire a $1 million permanent insurance policy on B's life with premiums payable to age 100, and share the premium cost appropriately.

The shared ownership agreement provides that B will pay the appropriate premium cost till age 65, but can continue to pay the appropriate premium cost to age 100 (or till death) should B wish to continue benefiting from the insurance coverage past age 65. Holdco may also pay additional premiums into the policy subject to the exempt limits. Upon B's death, B's spouse or children will receive the $1 million death benefit, and any excess death benefit will be payable to Holdco on a tax-free basis.

The benefits of a shared ownership arrangement

The following outlines the key benefits of a shareholder and a private corporation entering into a shared ownership arrangement with respect to an exempt life insurance policy. Please note that RBC Insurance's *Life Insurance for Business Owners Advisor Guide* discusses these topics in more detail.

(a) Premium flexibility/tax-deferred accumulation

The parties can agree on a reasonable allocation of the insurance costs under the policy to the owner of the death benefit, providing flexibility for the death benefit owner to quickly pay the policy, pay the equivalent of the renewable term premiums or pay a level premium for life.[3]

In turn, the fund value owner benefits from tax-deferred growth available within an exempt insurance policy.[4] Thus, much like a registered retirement savings plan, the growth in the fund value of a life insurance policy is not subject to tax provided the policy is not disposed of prior to the death of the life insured.[5] The benefits are further enhanced as the policy's insurance charges are being funded by another person.

(b) Tax-free death benefit

The payment of a benefit under an exempt life insurance policy as a result of the death of a life insured is not considered to be a disposition of the policy.[6] Thus, the full amount of the death benefit under a jointly owned policy (including that portion of the death benefit attributable to the fund value of the policy) can be paid to the corporation and insured shareholder's designated beneficiaries on a tax-free basis.

(c) Credit to the capital dividend account

The capital dividend account is a notional tax account that tracks certain amounts received by a private corporation that would have been tax-free had they been received directly by the shareholders of the corporation.[7] Generally, the excess of a death benefit over the adjusted cost basis (ACB) of the policy received by the corporate beneficiary is included in the calculation of the capital dividend account balance. A corporation can pay a tax-free capital dividend from its capital dividend account to its Canadian resident shareholders.[8] The portion of the death benefit equal to the adjusted cost basis can be distributed to shareholders on a taxable basis. However, the adjusted cost basis of an insurance policy generally declines to nil near life expectancy. Consequently, the amount of death benefit that can be credited to the capital dividend account increases as the life insured grows older.[9]

It should be noted that where a life insurance policy is jointly owned, the adjusted cost basis of the policy cannot be pro-rated between the co-owners in determining the adjusted cost basis for the corporate beneficiary for purposes of calculating the credit to the capital dividend account. Thus, the full amount of the policy's adjusted cost basis will be deducted in determining the credit to the corporation's capital dividend account.[10]

Example

Opco and D, the only shareholder of Opco, jointly acquire a $1 million life insurance policy on D's life. Opco owns and pays for the $1 million of coverage (premium of $10,000 per year). D owns and pays for the fund value of the policy (an additional premium of $20,000 per year). Let's assume that D passes away at the end of year seven, and the fund value death benefit at that time is $200,000. Opco will receive the $1 million death benefit, and D's estate will receive the fund value death benefit of $200,000. The adjusted cost basis of the policy at the time of D's death is $180,000 ($70,000 in premiums paid by Opco plus the $140,000 of premium paid by D less the cumulative net cost of pure insurance of $30,000). Thus, the credit to Opco's capital dividend account will be $820,000 ($1 million death benefit – $180,000 ACB) despite Opco only paying $70,000 in premiums.

(d) Collateral leveraging

As is the case where a life insurance policy is owned by a single person, it is possible to make withdrawals or borrow against a policy that is jointly owned. The right to withdraw all or a portion of the cash surrender value or borrow against the policy is typically reserved for the fund value owner, although the entire policy (including the death benefit owner's interest in the policy) will be assigned to secure the loan.

The collateral assignment of a policy as security for a loan is not treated as a disposition of the policy, and therefore, will not trigger any immediate tax reporting to the policyholder.[11] Where the loan proceeds are used to earn taxable income from a business or property, the loan interest may also be deductible.[12] In addition, there is another deduction that may be available where the policy is used for income-generating purposes, referred to as the collateral insurance deduction.

In order to claim the collateral insurance deduction, the following conditions[13] must be satisfied:

- The policyholder must be the borrower;[14]
- The policy must be collaterally assigned for a loan from a restricted financial institution,[15] which includes a bank, an insurance company or a trust company;[16]
- The interest payable on the loan must be deductible for income tax purposes; and
- The assignment of the policy must be required by the lender as collateral for the loan.

If the above criteria are met, the deduction is equal to that portion of the lesser of the following two amounts that relates to the loan amount owing from time to time during the year:

- The premiums payable for the year; and
- The policy's net cost of pure insurance (NCPI) for the year (in respect of the interest in the policy that has been assigned).

Please refer to the discussion on shareholder benefits below where a shareholder is borrowing against a policy that is jointly owned with a private corporation.

(e) Continued access to the small business deduction

The small business deduction reduces the tax rate on the first $500,000 of active business income earned annually by a private corporation.[17] This results in significantly less taxes being paid on business income earned by a corporation compared to earning that income through a sole proprietorship[18] because of the potential tax advantage to the corporation investing those funds rather than distributing those profits to the shareholders to invest. This is due to the fact that there was an additional tax levied on the dividends, which reduced the after-tax amount available to the shareholder to invest. It is important to note that investment income earned by a corporation is taxed at a rate similar to the top marginal tax rates applicable to personal investment income. Therefore, the main benefit would be having more capital available to invest in the corporation.

Example

Opco has taxable income of $400,000 that qualifies for the small business deduction, being under the $500,000 limit. Assuming the combined federal/provincial small business tax rate on this income is 12%, this would result in taxes of $48,000, leaving $352,000 in the corporation, which could be used for investment purposes. However, if the after-tax profits are distributed to an individual shareholder as a taxable dividend, that shareholder would only have approximately $184,000 to invest after paying tax on the dividend income. Assuming an after-tax rate of return of 5% on these funds, in the first year, the corporation would earn $17,600 vs. $9,200 for the shareholder.[19]

Because of the potential tax benefits arising from the corporate investment of the after-tax profits that benefit from the small business deduction, eligibility for the small business deduction is reduced once a corporation (and associated corporations) earns more than $50,000, of adjusted aggregate investment income (AAII) in the immediately preceding taxation year. For every dollar of investment income earned by the corporation in excess of $50,000 the small business deduction limit is reduced by five dollars. Thus, the small business deduction will be fully eliminated once the corporation's AAII exceeds $150,000 in the preceding year.[20]

However, income accumulating within a corporate-owned exempt life insurance policy (including a jointly owned policy subject to a shared ownership agreement) is not considered to be AAII, and will therefore not impact access to the small business deduction.[21] Therefore, it is possible for a corporation to own the fund value of the policy and accumulate income within an exempt life insurance policy without affecting its access to the small business deduction in a shared ownership agreement. However, any taxable policy gain arising from the disposition of a corporation's interest in a life insurance policy may be included in that corporation's AAII for purposes of these rules.

Other important tax issues to consider

(a) Shareholder benefit rules

General considerations

The Canada Revenue Agency (CRA) has indicated that where the policy is jointly owned by a corporation and a shareholder, no shareholder benefit will be assessed if the death benefit owner (which could be the corporation or the shareholder) pays premiums that would provide comparable rights available in the market under a separate insurance policy.[22] In a somewhat similar context, the CRA expressed the view that a shareholder benefit would arise if the corporation was impoverished as a result of the transactions and the shareholder received a corresponding benefit.[23]

A shareholder benefit issue will likely arise where it appears that the annual premium paid by the corporation[24] exceeds the premium payable for a policy offering comparable benefits. It is, therefore, prudent for a client to obtain independent actuarial, accounting and tax advice to determine what portion of the premium cost should be paid by each party to the agreement. Retaining separate insurance illustrations showing the premium costs for a comparable policy may be helpful.

It should also be noted that the type of policy being used as part of the shared ownership arrangement may also impact the potential for a shareholder benefit. For example, a universal life policy has a relatively transparent design, which facilitates an easier separation of the death benefit and fund value components of the policy as well as the related insurance costs and other charges. This permits the internal costs of the policy to serve as a good proxy for the allocation of premiums between the respective joint owners. On the other hand, it can be more difficult to separate out the fund value and death benefit components and costs for a participating life insurance policy. As a result, it may be necessary to use a reference point other than the participating life insurance policy to determine the appropriate split of costs and benefits between the joint owners. This makes it even more important to have an independent actuarial opinion supporting the premium allocation between the parties.

Shareholder borrowing against fund value

As noted, where the shareholder is the owner of the fund value of the policy, it is possible for the shareholder to borrow funds secured by the life insurance policy. The corporation must consent to the loan as the entire policy will be assigned as collateral security. A shareholder benefit may arise where a corporation guarantees a loan being extended to a shareholder.

The CRA has identified the following factors as being relevant in determining whether the corporation has conferred a benefit on the shareholder:

- Does the shareholder deal at arm's length with the corporation?
- Is there evidence that the shareholder is unable to repay the loans when the corporation provides support for the borrowing?
- Has the shareholder paid a reasonable fee to the corporation for providing the guarantee or security?

In addition, the CRA has expressed the view that one method of calculating the amount of the shareholder benefit is to compare the difference between the actual interest rate charged on the loan to the shareholder and the rate that would have been applicable without the assignment of the policy.[25] The CRA has also indicated that where the shareholder pays a reasonable guarantee fee to the corporation as consideration for granting the guarantee, the guarantee will not, in and by itself, give rise to a benefit.[26] What constitutes a reasonable fee is a question of fact and may be influenced by the fact that the shareholder owns the fund value of the policy.[27]

As well, a shareholder benefit might arise upon the death of the life insured where the loan is repaid with life insurance proceeds that would otherwise be payable to the corporation. This might occur, for example, if the loan (including the accumulated interest) exceeds the fund value of the policy at the time of death. This can be avoided by having the deceased shareholder's estate provide additional security to the lender. The corporation could then pay a capital dividend to the estate arising from the life insurance proceeds, which could then be used by the estate to repay the deceased shareholder's borrowings and obtain a release of any additional collateral security. Please consult tax advisors before implementing such planning.

(b) Life insurance valuation rules on death

An individual taxpayer is deemed to have disposed of all capital property that the taxpayer owned at the time of death for proceeds of disposition equal to the fair market value of those properties immediately before death.[28] Thus, if a corporation uses after-tax income to acquire investments, rather than distributing those earnings to the shareholders, this will potentially increase the fair market value of the shares, and in turn, the capital gain that will ultimately be realized on those shares.

The question then becomes – will using after-tax corporate earnings to fund a corporate-owned life insurance policy have a similar impact on the value of those shares upon the death of the shareholder/life insured? The answer is yes, but only to the extent of the cash surrender value of the policy. There is a special rule that provides that where the deceased individual owned shares in a private corporation, and that corporation owned life insurance on the deceased shareholder's life (or any other person not dealing at arm's length with the deceased shareholder), the fair market value of any such insurance policy will be deemed to be its cash surrender value immediately before the death.[29] It is unclear how this rule would apply in a situation where the corporation is the owner of the death benefit but not the fund value of the policy.

(c) Retirement compensation arrangements

The parties to a shared ownership arrangement must be careful in structuring a shared ownership arrangement where one of the reasons for acquiring the life insurance policy is to provide the shareholder (who is also an employee) with retirement income. The CRA may take the position that the rules relating to retirement compensation arrangements (RCAs) govern the shared ownership arrangement.[30] If the RCA rules are applicable, the corporation will be required to remit refundable tax equal to the premiums it is paying into the policy. This tax will be refunded when taxable retirement benefits are paid to the shareholder on the basis of one dollar refunded for every two dollars paid.[31] The ownership of life insurance within an RCA may result in the imposition of an advantage tax.[32]

(d) Impact on the lifetime capital gains exemption

Capital gains arising on the disposition of shares in a private corporation owned by an individual shareholder may qualify for the lifetime capital gains exemption.[33] The exemption is available for capital gains arising on the disposition of shares in a qualified small business corporation (QSBC shares).[34] There are a number of requirements that must be satisfied for shares to qualify as QSBC shares including the fact that all or substantially all[35] of the assets owned by the corporation must be used in an active business carried on by the corporation in Canada immediately prior to the disposition of the shares.

The CRA has indicated that the cash surrender value of a corporate-owned life insurance policy will be considered to be a passive investment asset.[36] This holds equally true where the policy is jointly owned, and the corporation owns the fund value of the policy. In other words, the corporation's interest in the insurance policy would not be considered to be an active business asset for purposes of determining whether shares in the corporation qualify for the lifetime capital gains exemption. This raises the question of what value should be given to a corporate-owned life insurance policy for purposes of the QSBC share definition.

There is a specific rule that applies where a shareholder of the corporation (or a corporation connected with the corporation, such as a holding company) is the life insured under the corporate-owned life insurance policy.[37] This rule provides that the fair market value of the insurance policy at any time before the death of the life insured will be its cash surrender value.[38] The cash surrender value is to be determined without taking into account any loans taken against the policy.[39] Again, it is unclear whether the cash surrender value of the policy would need to be taken into account where the fund value is owned by the shareholder.

In circumstances where the shareholder has died, there is another rule that will deem the value of the insurance proceeds to be the cash surrender value of the policy immediately before death, provided the insurance proceeds are used within 24 months from the date of death to redeem, acquire or cancel the shares owned by the life insured immediately before death.[40] Presumably, this rule would similarly apply in circumstances where the policy is jointly owned.

(e) Avoiding the future transfer of the policy

Joint ownership of a policy with a corporation can be problematic where the shareholder is planning to sell their shares in the corporation and wishes to retain control of the insurance policy. The transfer of a life insurance policy from the corporation to a shareholder (or vice versa) will be a partial disposition of the policy for tax purposes, and it may result in a taxable policy gain. The proceeds of disposition to the transferor and the acquisition cost to the transferee will be governed by subsection 148(7).[41] Once again, interpretive issues can arise in terms of the application of these rules where the policy is jointly owned.

As well, if the shareholder does not pay fair market value for the corporation's interest in the policy, this could result in a shareholder benefit equal to the amount by which the value of the corporation's interest in the policy exceeds the amount paid by the shareholder. An actuarial valuation of the interest being transferred is recommended.

The need to transfer the policy due to the sale of the corporation might be avoided by having the life insurance policy owned by a holding company not expected to be sold rather than by the operating company.

It must also be understood that the insurance company is not a party to the shared ownership agreement and will administer the policy as if each co-owner holds an undivided interest in the policy. Thus, the insurer will typically not maintain separate adjusted cost basis for the joint interests in the policy. This will result in the joint reporting of policy gains on a disposition, and the policy death benefit will be paid jointly to the co-owners.[42] If the parties want to tax report on a different basis than jointly, the relevant policy calculations (NCPI, ACB and deemed proceeds of disposition) will need to be determined by a third party.[43] The CRA may also dispute these calculations and reassess on a basis different from that contemplated in the co-ownership agreement, particularly where the parties do not deal with each other at arm's length.

(f) Future changes to tax laws

A client must understand that tax laws may change in the future, which could affect the tax treatment of life insurance policies held within a private corporation. The risk of future tax changes is perhaps greater with life insurance strategies as they generally need to be in place over an extended period of time.

Non-tax considerations

(a) Creditor protection

Provincial insurance legislation provides creditor protection for life insurance policies in certain circumstances. It is unclear whether such protections will be available to a jointly owned insurance policy, where the shareholder designates a beneficiary from a protected class (for example, the spouse or children of the shareholder). Thus, where creditor protection of the insurance policy is essential, consideration could be given to structuring the corporate ownership through a separate holding company. The operating company can pay tax-free dividends (subject to safe income rules) to the holding company from its after-tax profits to fund the premiums payable by the holding company.

(b) Probate planning

Several provinces impose probate fees based on the value of the deceased's estate.[44] Typically, the value of shares held in a private corporation will increase the value of the estate, and therefore, result in higher probate fees.[45] Thus, to the extent that a corporation has an interest in the fund value of an insurance policy under a shared ownership arrangement, this could result in higher probate fees.

However, where permissible (for example, British Columbia and Ontario), it may be possible to use a secondary will that governs the distribution of shares in a private corporation on the death of a shareholder. A secondary will is not required to be probated. Therefore, the entire value of the shares held by the deceased (including the value arising from the cash surrender value of a corporate-owned insurance policy) will not be subject to probate taxes.

(c) Documenting the shared ownership arrangement

The following documents and agreements are normally required to implement a shared ownership arrangement:

- The life insurance application
- The shared ownership agreement (see more details below)
- A transfer of ownership form (unless both owners have signed the life insurance application)
- Appropriate beneficiary designations in accordance with the terms of the shared ownership agreement
- A power of attorney if policy transactions are to be authorized by only one party[46]
- Corporate resolutions that authorize the corporation to acquire an interest in the life insurance policy and enter into the shared ownership agreement

The terms of a shared ownership agreement will depend on the needs of the clients and the applicable provincial law. However, such agreements normally include provisions governing the following:

- The method for determining the payment of premiums by each party
- The ability – and any limitations on the rights of the fund value owner – to make cash withdrawals, take policy loans or collaterally borrow against the policy
- The party who will be entitled to provide instructions to the insurer relating to such decisions as policy investment accounts, dividends, future beneficiary changes, etc.
- The ability of either party to assign or transfer their respective interests in the policy
- The resolution of conflicts
- The termination provisions

Summary

While the shared ownership arrangement may provide a unique planning opportunity in owning a life insurance policy, the arrangement should be considered after consulting an accounting, tax and legal professional. This is because any impoverishment of the corporation resulting from this arrangement may trigger taxable shareholder/employee benefits.

This guide has been designed to outline the benefits and other considerations in implementing a corporate shared ownership arrangement between shareholders and a private corporation. However, the client should seek the assistance of legal and tax professionals before implementing these types of arrangements.

[1] The fund value of a life insurance policy for this purpose is generally equal to the cash value of the policy before surrender charges.

[2] Death benefits payable to the estate may be subject to probate fees or estate administration tax.

[3] However, it is important to be aware of potential shareholder benefit issues, discussed in another section of this guide.

[4] There is a specific exemption from the annual accrual rules in paragraph 12.2(1)(a) of the Act.

[5] For example, a partial surrender of the policy or the taking of a policy loan could trigger tax reporting on gains in the policy.

[6] Paragraph (j) of the definition of “disposition” in subsection 148(9) of the Act.

[7] Defined in paragraph 89(1) of the Act.

[8] Subsection 83(2) of the Act.

[9] This is due to the fact that the policy’s “net cost of pure insurance” (which reduces the ACB of the policy) will increase over time as the life insured grows older.

[10] See 2017-0690311C6 dated May 18, 2017 and 2018-0745811C6 dated May 8, 2018.

[11] Paragraph (f) of the definition of disposition in subsection 148(9) of the Act.

[12] Paragraph 20(1)(c) of the Act.

[13] Paragraph 20(1)(e.2) of the Act. Presumably, this requirement may also be satisfied in circumstances where the policy is jointly owned.

[14] For example, if the borrower is the shareholder of Opco, and the loan is secured by a policy owned by Opco, the collateral insurance deduction will not be available.

[15] The term “restricted financial institution” is defined in subsection 248(1) of the Act.

[16] The lender must require the insurance be assigned as collateral as a term of the borrowing. See Norton v. The Queen, 2010 TCC 62.

[17] Subsection 125 of the ITA. The federal tax rate is generally reduced to 9% and the provinces also provide reduced tax rates on active business income up to provincial limits.

[18] For example, if a sole proprietor living in Ontario earned $200,000 of active business income, the average rate of tax on this income would be approximately 35% and the marginal tax rate on additional income would be over 50%. However, the same level of income earned within a corporation would be taxed at a rate of approximately 12%. If the corporate income is distributed to a shareholder, the amount of taxes payable by the corporation and the shareholder would be approximately the same as what would be paid if the income was earned directly through a sole proprietorship.

[19] It is important to recognize that the corporate retained earnings plus the after-tax return on those earnings will be subject to another layer of personal tax when distributed to the shareholder, so the overall tax benefit would be much lower.

[20] Paragraph 125(5.1)(b) of the Act.

[21] See the definition of “adjusted aggregate investment income” in subsection 125(7) of the Act and the definition of “aggregate investment income” in subsection 129(4) of the Act.

[22] 1992 CALU CRA Roundtable. See also CRA document no. 9807000 dated May 12, 1998.

[23] 2004-0090181E5 dated November 30, 2004.

[24] Whether it be for an interest in the death benefit or the fund value.

[25] CRA technical interpretation 2000-0002575 dated March 29, 2000. In this case the CRA considered an arrangement where the corporation was the sole owner of the policy.

[26] CRA technical interpretation 2006-0174011C6 dated June 29, 2006.

[27] In Golini v. The Queen (2016) TCC 174, the Tax Court of Canada concluded that the guarantee granted by the corporation was provided by way of an absolute assignment of the life insurance and annuity as security. This resulted in a shareholder benefit equal to the full amount of the loan less guarantee fee payments made or to be made by the shareholder. It is unclear whether this determination of the amount of the shareholder benefit will be limited to facts of a similar nature.

[28] Subsection 70(5) of the Act.

[29] Subsection 70(5.3) of the Act. This rule can also apply where the policy is a multi-life policy and the other life insured does not deal at arm’s length with the shareholder. See also CRA technical interpretation 2005-0138111C6 dated October, 7, 2005.

[30] An RCA is defined in subsection 248(1) of the Act.

[31] The rules governing retirement compensation arrangements are set out in section 207.5 of the Act, and a complete discussion of these rules is beyond the scope of this guide.

[32] Sections 207.62 and subsection 207.5(1) of the Act. See also CRA technical interpretations 2013-0481421C6 dated May 17, 2013 and 2014-0544211E5 dated December 14, 2015 and 2015-0580461E5 dated May 15, 2107.

[33] Section 110.6 of the Act. The lifetime exemption limit is indexed and for 2020 is equal to approximately $880,000. However, the limit is increased to $1 million where the disposition involves qualified farming and fishing property.

[34] Defined in subsection 110.6(1) of the Act. Also see the definition of “small business corporation” in subsection 248(1) of the Act.

[35] This is understood to mean 90% or more of the assets.

[36] Canadian Tax Foundation 1988 Roundtable, Q. 32.

[37] Paragraph 110.6(15)(a) of the Act.

[38] Subparagraph 110.6(15)(a)(i) of the Act.

[39] Definition of “cash surrender value” in subsection 148(9) of the Act.

[40] Subparagraph 110.6(15)(a)(ii) of the Act.

[41] Subsection 148(7) deems the proceeds of the disposition to be the greatest of the cash surrender value of the interest in the policy, the ACB of the interest in the policy and the fair market value of consideration received on the transfer.

[42] However, it should be noted that the CRA has taken the view that the insurer is responsible for tax reporting on the disposition of a joint interest in a policy assuming it is provided with the necessary information by the policyholders to determine the ACB of the policyholder’s interest and the proceeds of disposition. See 2001-0089935 dated September 5, 2001.

[43] This would normally be an independent actuary and/or tax advisor.

[44] For example, BC, Ontario and Nova Scotia impose probate taxes in the range of 1.5% of an estate’s value.

[45] Referred to as the estate administration tax in Ontario.

[46] The ability to give directions using the power of attorney should be confirmed with the insurance company.

For more information, please contact your MGA or call your **RBC Insurance Sales Consultant** at **1-866-235-4332** or visit **rbcinsurance.com/participatinglife**.

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