ADVISOR USE ONLY

A GUIDE FOR LAWYERS AND ACCOUNTANTS

Sharing Interests in a Life Insurance Policy

Shared ownership and shared benefit life insurance arrangements

Sun Life

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Contents

This guide is designed to provide you with information on insurance-sharing strategies using universal life insurance.

There are two kinds of insurance sharing strategies:

1. Shared ownership
2. Shared benefit

This guide discusses the different uses of shared ownership and shared benefit strategies using universal life insurance and some of the legal and tax issues that may arise.

The discussion and illustrations in this guide all use **SunUniversalLife** insurance. Other life insurance products may be used as part of an insurance sharing strategy, but the discussion and illustrations might have to change.

These strategies are primarily discussed within a business owner's context although some family uses may apply.

The information in this guide provides general guidance on some of the legal and tax issues with shared ownership and shared benefit insurance strategies. It is not a tax opinion or legal advice.

The sample insurance clauses are provided for your reference only. This information does not replace the need for professional advice that reflects the facts of each Client's situation.

Please see the disclaimer on page 24.

Why Universal Life Insurance?

Universal life insurance policies are particularly suitable for insurance-sharing strategies because they have two clearly identifiable components:

- a pure insurance death benefit that is paid tax-free on the death of the insured person, and
- a savings component that can be accessed during the insured person's lifetime and is also paid tax-free on their death (fund value).

The annual policy statement shows the numbers required to administer this strategy. The total premium required, the cost of insurance, the contribution to the fund value, policy fees and provincial premium taxes are all summarized. This makes it easier for the parties to the shared ownership or shared benefit arrangement to apportion the amount of the premium paid between them according to the terms of their agreement. Sun Life Financial doesn't apportion the premiums paid between the parties.

Life insurance policy options for shared ownership and shared benefit arrangements

There are different ways the parties to a shared ownership or shared benefit arrangement can share the policy's death benefit. Two common death benefit options are "level death benefit" and "level death benefit plus fund value". When designing the policy, it's important for the parties to choose the policy options according to their needs. The following discussion shows the difference between a level death benefit and a level death benefit plus fund, and the difference within each option between choosing a level cost of insurance and a yearly renewable term cost.

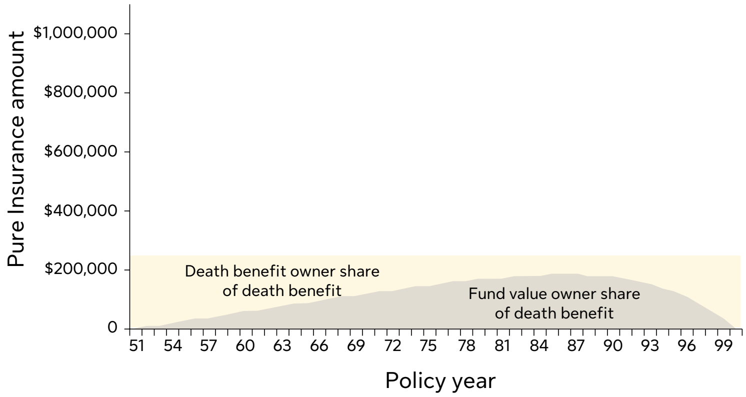
As will be seen, using the same policy, but structuring its features differently, allows for different arrangements that will appeal to different shareholders and their corporations, depending on their individual needs and wants.

Level death benefit

The parties share a life insurance policy with a level death benefit.[1] The chart to the right assumes that they have chosen "yearly renewable term" as their cost of insurance option.

[1] Based on rates in effect on September 22, 2012. Insured person is a single male non-smoker, age 50. Coverage equals $250,000. Premiums assumed to be $510 per month for 50 years. Death benefit option is level, policy values assumed to grow at 1.50% per year using guaranteed investments. Policy exempt status is to increase insurance amount. Cost of insurance is yearly renewable term.

Level death benefit – yearly renewable term



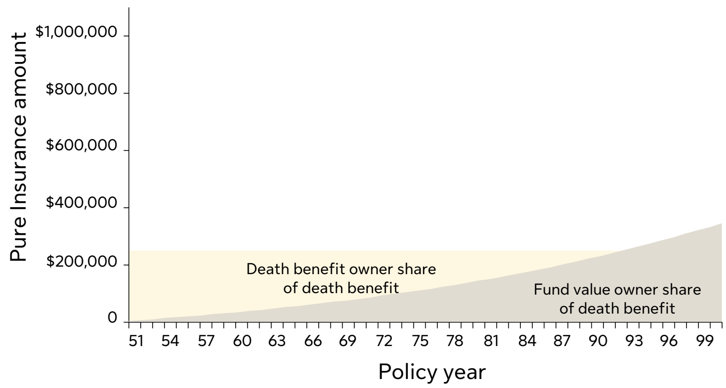
As the policy's fund value grows, the fund value owner's share of the death benefit grows, while the death benefit owner's share shrinks. But later in life, the fund value owner's share of the death benefit peaks and then declines, increasing the share of the death benefit for the death benefit owner. Unless the death benefit is required to rise to comply with the laws governing the definition of life insurance, the total death benefit paid will not grow.

A sole shareholder who has maximized other tax advantaged savings plans like RRSPs, TFSAs and registered pension plans, and who wants to have a tax-deferred savings plan during life, may find this arrangement attractive. Although they won't be able to deduct their premiums, money in the policy cash value will grow tax deferred. The shareholder can access those values through collateral loans if they need to or want to. If the policy remains in force until death, the cash values can be paid tax-free as a death benefit to the shareholder's beneficiaries. Even if the cash values decline in old age, the corporation's share of the death benefit (minus the corporation's adjusted cost basis (ACB) in its share of the policy) can be flowed out through the corporation's capital dividend account to or for the benefit of the shareholder's family members.

If you leave all other policy options the same, but change the cost of insurance option from "yearly renewable term" to "level term", the illustration changes, as shown below.[2]

In this illustration, the fund value owner's share of the death benefit grows, ultimately exceeding the original death benefit amount. At the same time, the death benefit owner's share of the death benefit shrinks, ultimately reaching zero before the insured person reaches age 100.

Level death benefit – level term



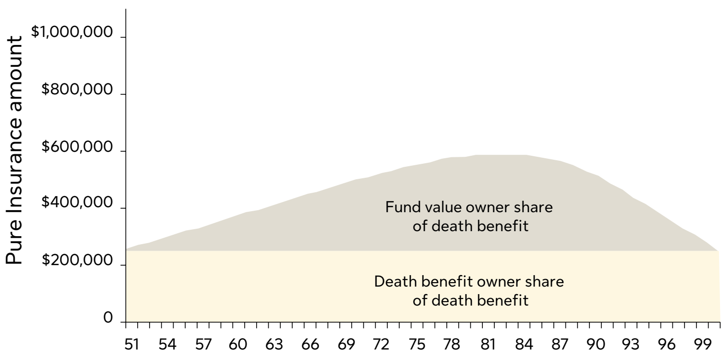
This arrangement may appeal to a shareholder of a corporation that has borrowed money and will be repaying it over time, and for a shareholder who wants permanent tax-deferred savings. As the corporate loan balance declines, so does the corporation's life insurance amount. The shareholder's savings component grows, and, unlike the previous example, never declines.

[2] Based on rates in effect on September 22, 2012. Insured person is a single male non-smoker, age 50. Coverage equals $250,000. Premiums assumed to be $510 per month for 50 years. Death benefit option is level, policy values assumed to grow at 1.50% per year using guaranteed investments. Policy exempt status is to increase insurance amount. Cost of insurance is level term.

Level death benefit plus fund

It's also possible to structure a life insurance policy to pay a minimum level death benefit, with any growth in the policy's fund value increasing the death benefit by a corresponding amount. Under this scenario, all assumptions from the first set of illustrations are the same except that the premiums rise from $510 per month to $1031 per month to keep the insurance policy in force until the insured person's age 100. Assume the parties choose "yearly renewable term" as their cost of insurance option. The graph shows the result.[3]

Level death benefit plus fund value – yearly renewable term



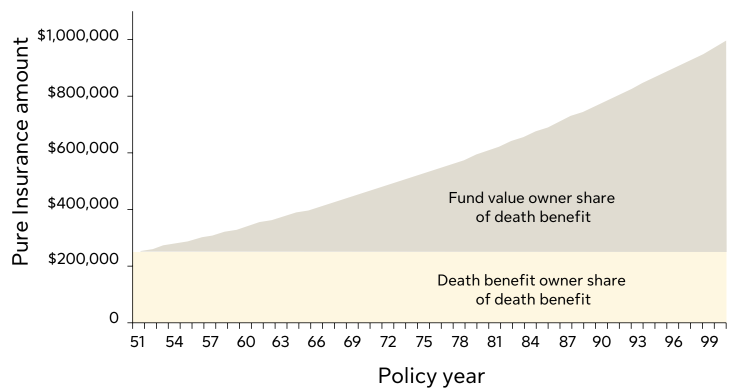
This arrangement may appeal to a corporation with a permanent need for life insurance on the shareholder, unlike the previous two examples. The shareholder's fund value declines as they move into old age, reducing the total death benefit. The parties may find it beneficial to maintain the shared ownership arrangement only until the shareholder's retirement, to provide insurance protection for the corporation and a growing fund value for the shareholder during their working years.

The level death benefit for the death benefit owner is level for all years up to the insured person's 100th birthday. But, as the policy fund value grows, the fund value death benefit owner's share can grow also. In this illustration, the fund value death benefit owner's share declines and reaches zero in the year the insured person reaches age 100.

The policy performs differently if the parties choose "level term" as their cost of insurance option, as shown to the right.[4]

This arrangement may appeal to a shareholder who has a permanent need or desire for tax-deferred savings, and a corporation with a permanent need for life insurance on the shareholder's life.

Level death benefit plus fund – level term



[3] Based on rates in effect on September 22, 2012. Insured person is a single male non-smoker, age 50. Coverage equals $250,000. Premiums assumed to be $1031 per month for 50 years. Death benefit option is level plus fund, policy values assumed to grow at 1.50% per year using guaranteed investments. Policy exempt status is to increase insurance amount. Cost of insurance is yearly renewable term.

[4] Based on rates in effect on September 22, 2012. Insured is a single male non-smoker, age 50. Coverage equals $250,000. Premiums assumed to be $1031 per month for 50 years. Death benefit option is level plus fund, policy values assumed to grow at 1.50% per year using guaranteed investments. Policy exempt status is to increase insurance amount. Cost of insurance is level term.

A Question Of Ownership –
The Key Difference Between Shared Ownership and Shared Benefit Arrangements

In both shared ownership and shared benefit arrangements, the parties share the costs and benefits of the insurance coverage. The key difference with a shared ownership arrangement is that there are two or more owners under the shared ownership agreement. With a shared benefit arrangement, there is only one owner.

Shared ownership

With a shared ownership arrangement, two or more parties enter into an agreement to share the ownership of a life insurance policy. Originally called "split dollar," these agreements were often set up in an employment situation. The employee would own the pure insurance death benefit, while the employer would own the fund value and a death benefit equal to the fund value.[5] The employer would pay all the premiums. The premiums paid for the employee's share of the life insurance would be taxable income to the employee, and deductible to the employer if they were a reasonable business expense.

The arrangement would provide equivalent to term life insurance protection for the employee. If the employee died, the employee's family would receive the employee's share of the death benefit tax-free. The employer also would receive its share of the death benefit tax-free. The employer could use its death benefit to help recover the cost of providing the benefit.

If the employee retired or otherwise left the employer, the parties would have several options:

- Cancel coverage. The employer could be taxed on part of the cash value to the extent the policy's cash surrender value (CSV) exceeded the ACB of the employer's interest in the policy. The employee would likely experience little to no tax consequences because their interest in the policy would have no cash value.
- The employee relinquishes their share of the coverage to the employer. The transfer would be a disposition for the employee. The employee would have to include the value of their interest in the policy in income, minus their ACB in the policy. Value would be the greatest of the policy's ACB, CSV or the fair market value (FMV) of whatever the employer paid to the employee for their interest in the policy. Depending on whether and how much the employer paid to the employee for the employee's interest in the policy, the transfer could produce tax consequences for the employee.

[5] This person could be a key-employee (manager, CEO, partner, etc.) or shareholder.

- The employer transfers their share of the coverage to the employee. The transfer would be a disposition for the employer. The same considerations would apply as above. The employer would have to include the value of their interest in the policy in income, minus their ACB in the policy. Value would be the greatest of the policy's ACB, CSV or the FMV of whatever the employee paid to the employer in exchange for the employer's interest in the policy. Additionally, to the extent that the employee did not pay FMV for the employer's interest in the policy, the employee would be treated as having received a taxable shareholder or employee benefit.

In each of the three transactions above, the life insurance company may have to issue a tax reporting slip.[6] Most life insurance companies report taxable transactions on a policy basis, not an interest basis. It is possible that the policy's ACB would not equal the employer's and employee's combined ACBs, owing to the fact that the ACB can never be a negative number. The parties would need to speak with their tax advisors to determine how they would account for their separate ACBs in the policy in a manner acceptable to the Canada Revenue Agency (CRA).

Although shared ownership arrangements began with the employer owning the policy cash value and the employee owning the pure death benefit in the policy, today it is more common to have the employee own the fund value to take advantage of the tax-sheltered growth inside an exempt life insurance policy. The employee can later supplement other sources of income by either making withdrawals from the fund, taking policy loans, or by pledging the fund as collateral for loans.

The parties can also agree to share other benefits of the policy, including term benefits and disability waivers, and can share the cost of those benefits. Occasionally, the parties will have an interest in owning the fund value and the pure insurance death benefit in proportion to the amount of premiums paid.

In a family situation, parents or grandparents may want to share the costs, benefits and ownership of a policy with their children and/or grandchildren.

Shared benefit

With a shared benefit arrangement, the employee is the sole owner of the life insurance policy. The employer is designated as the irrevocable beneficiary of the pure insurance death benefit.

At retirement, the employer relinquishes its irrevocable beneficiary designation to allow the employee to change the beneficiary for the pure insurance death benefit to a person or entity of the employee's choosing. The CRA has not stated its views on whether the employer's action could trigger tax consequences for the employer and/or employee. For the employer the relinquishment is not likely to be treated as a disposition because an irrevocable beneficiary designation is not a form of policy ownership. For the employee, though, the relinquishment could be a taxable employee benefit because the employee will gain something – more control over the policy.

During retirement, the employee may make withdrawals from the policy fund or take policy loans, or may pledge the fund value as collateral for a loan to create retirement income.

Common uses of shared ownership and shared benefits strategies may include the following:

	Shared Ownership	**Shared Benefit**
Funding key person protection	•	•
Providing retirement fund for key employees	•	•
Funding buy-sell agreement between owners/shareholders of a closely held corporation (can include sharing among corporations, e.g. between a holding company and an operating company)	•	•
Inter-generational planning	•	
Estate planning	•	

[6] Regulation 217(2).

Shared Ownership

Shared ownership agreements may be set up for business or family uses so that two or more parties can own and benefit from different components of the life insurance policy.

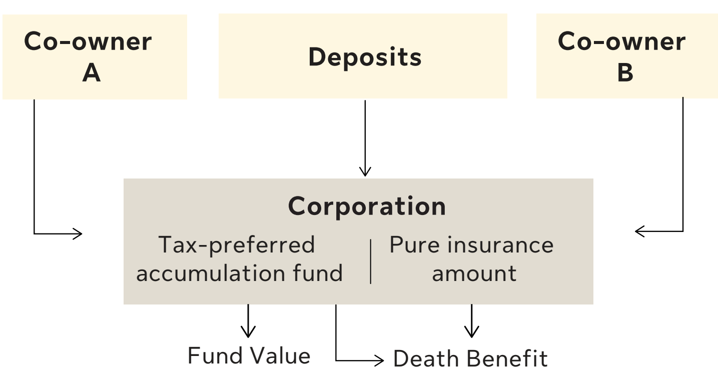
Benefits of owning the pure insurance death benefit:

- life insurance protection at market cost with the opportunity to pay premiums over a short period to minimize disruptions to cash-flow
- credit to the capital dividend account (CDA) is available when the corporation is the beneficiary of the pure insurance death benefit (minus the corporation's ACB in the pure insurance coverage under the policy)[7]

Benefits of owning the fund value:

- access to the policy's tax-preferred cash value growth (tax-free at death) without paying for the cost of the pure insurance part of the policy
- access to the policy cash value, through policy loans, withdrawals or leveraging while the insured person is alive (access may be restricted by the terms of the shared ownership agreement)
- at the fund value owner's death, an amount equal to the fund value can be paid as a death benefit tax-free to the fund value owner's beneficiary

The diagram below shows how shared ownership agreements work:



1. Co-owners A and B enter into a life insurance shared ownership agreement.
2. They agree to jointly own a cash value life insurance policy.
3. Co-owner A is also the life insured person under the policy.
4. Between them, Co-owner A owns and pays the premiums for the fund value amount during their life, and for a death benefit equal to the fund value amount at their death. Co-owner B owns and pays the premiums for the pure insurance amount.
5. If Co-owner A dies, the fund value is paid tax-free to Co-owner A's beneficiary, while the pure insurance amount is paid to Co-owner B.
6. Assuming Co-owner B is a corporation, it may credit the death benefit (minus the ACB of its interest in the policy) to its CDA. It can use the death benefit for any purpose (including key person), and use the capital dividend account to pay retained earnings to shareholders as tax-free capital dividends.

[7] Note however that when two or more corporations are beneficiaries under the same policy, each must reduce the amount they can credit to their respective CDAs by the entire policy ACB, even though that results in double counting the ACB (CRA document 2018-0745811C6, May 8, 2018.)

Common arrangements for a business

The most common arrangement is to create incentives for key employees or shareholders. They may also be used to fund buy-sell agreements between a corporation's shareholders. In this particular context, the agreement could take place between a holding company and its shareholder(s). Generally speaking, a holding company is a "passive entity" and rarely has employees.

Key employee agreements

A shared ownership agreement between a key employee and an employer can accomplish two goals:

- protect the employer against loss if the employee dies, and
- provide an employee incentive by creating a tax-preferred retirement fund which the employee can access at retirement

Retirement compensation arrangements (RCA)

An RCA is an arrangement where the employer contributes money to a trust for the employee's benefit. The trust will pay benefits to the employee at a later date, typically after the employee has retired or has left the employer. Money transferred to an RCA trust is tax deductible to the employer, assuming that the transfer qualifies for a deduction as a business expense. Money transferred to an RCA trust is not taxed to the employee in the year it is transferred. Rather, the employee pays tax only on what they receive from the trust in the year they receive it, even though that could be years in the future.

Any money transferred to the trust and any taxable growth on trust assets is subject to a 50% refundable tax, payable by the RCA trust to the CRA. Growth in an exempt cash value life insurance policy is not subject to the refundable tax unless the RCA trust makes a policy withdrawal or takes a taxable policy loan. But, when the trust pays benefits to the employee, the CRA refunds the tax to the trust, fifty cents for every dollar distributed to the employee.

There are limits on the amount of life insurance that an RCA trust can own on the employee. The CRA has stated the following (CRA document 2013-0481421C6, May 17, 2013):

> It is not clear under what circumstances an RCA would be holding a life insurance policy that provides for more than a nominal death benefit. The holding of such a life insurance policy would appear to have little to do with providing for benefits under the RCA in relation to retirement, a loss of an office or employment, or a substantial change in services rendered. The holding of such a life insurance policy by the RCA could give rise to an advantage and, therefore, advantage tax under section 207.6(2) of the Income Tax Act (the Act).[8]

The CRA also has stated that the RCA trust's death benefit under a life insurance policy it owns must not exceed the amount reasonably needed to fund any RCA survivor benefits, and must provide benefits associated with the needs of the RCA trust, not those of the employer, such as key person needs.[9] In other guidance, the CRA noted that the amount of life insurance an RCA could own was linked to the amount of insurance it needed for protection purposes, not the amount of cash value needed for investment purposes.[10]

Given the above, it seems that an RCA trust may own a cash value life insurance policy as long as the death benefit is a reasonable amount, given the RCA trust's obligations at the employee's death. In that regard, the CRA could be willing to tolerate the policy's cash value as an RCA trust investment as a necessary component in providing the survivor benefits the trust needs.

However, a split dollar arrangement could help the employer, employee and RCA trustee deal with the CRA's concerns over a life insurance policy providing excessive survivor benefits. There are at least two ways in which a shared ownership arrangement with life insurance in an RCA could be used.

[8] Income Tax Act, R.S.C., 1985, c. 1 (5th Supp.).

[9] CRA document 2014-0544211E5, December 14, 2015.

[10] CRA document 2013-0499501E5, December 14, 2015.

Scenario A: The employer owns the pure insurance death benefit and the RCA trust owns the fund value

The portion of the premium used to pay for the pure insurance death benefit cannot be deducted. Amounts the employer pays to the RCA trust is twice the amount the RCA trust needs to pay for its share of the policy. The employer will be able to deduct this amount, though the trustee will have to pay half of it to the CRA as refundable tax. The RCA trust will receive the refundable tax back as the RCA trust makes payments to the employee (one dollar for every two dollars paid as RCA benefits to the employee or employee's beneficiary). Amounts that the employer transfers to the RCA trust may be deductible as business expenses, even those amounts remitted to the CRA to pay the refundable tax.

If the employee dies, the employer will receive the pure insurance amount of the death benefit, and will be able to credit that amount to its CDA, minus the ACB of the entire policy. Under the 2016 amendments to the Act, the amount that a corporate beneficiary must deduct from the death benefit it credits to its CDA is the ACB of a policy holder's interest in the policy even if the corporate beneficiary doesn't own the policy. Therefore, the employer will have to include the ACB of its interest in the policy plus the ACB of the RCA trust's interest in the policy.

Scenario B: Employee owns the pure insurance death benefit and the RCA trust owns the fund value

The employer pays to the RCA trust an amount equal to twice the amount of premium needed to fund the RCA trust. The RCA trust pays half of this amount to the CRA as refundable tax, and the other half to the life insurance company. The employer may deduct this amount as a contribution to the RCA trust. The employee pays the rest of the premium to the life insurance company using after-tax funds. Alternatively, the employer pays the employee's share of the premium, treating the amount as a taxable benefit for the employee and a deductible amount for itself.

If the employee is also a shareholder, the employer may be able to deduct the benefit as a business expense if it can show that the shareholder is receiving the benefit as an employee, not as a shareholder. Otherwise, shareholder benefits are taxable to the shareholder and not deductible to the corporation.

If the employee dies, the employee's beneficiary receives the pure death benefit part tax-free. The RCA trust receives the death benefit equal to the policy cash value, also tax-free.

Under both scenarios, the mortality element of the policy will reside outside the RCA trust. Since the CRA was concerned about RCAs owning life insurance policies where the death benefit was more than what was needed to support the RCA trust's obligations after the employee's death, a structure that removes the pure death benefit amount from the RCA trust, yet leaves the investment component with the trust, may satisfy the CRA's concerns.

On the other hand, since the policy cash value supports in part the death benefit under the pure insurance part of the policy, the CRA may not accept the argument that the two components of the policy are truly separable. The CRA could argue that the part of the cash value supporting the pure insurance death benefit is a taxable advantage because it supports a death benefit that the RCA trust does not receive.

Deemed RCA

While an RCA offers many attractive features, it may not be suitable in all cases. For example, imposing a 50% refundable tax generally makes an RCA tax neutral for corporations taxed at that rate, and unattractive for corporations taxed at lower rates. The parties must be careful in creating a shared ownership arrangement if one of their objectives is to provide the employee or shareholder with a source of retirement funds. The CRA could treat the arrangement as a deemed RCA. One consequence is that the employer would be deemed to be an RCA trustee, and would have to remit to the CRA the value of all premiums paid by it to that point, and going forward.[12] In general, under subsection 207.6(2) of the Act, a deemed RCA arises when, under a plan or arrangement, an employer is obliged to provided retirement benefits to an employee, and

acquires an interest in a life insurance policy where it's reasonable to conclude that the policy could fund those retirement benefits.

[11] CRA document 2017-0690311C6, May 18, 2017.

[12] ITA s. 207.6(2).

Salary deferral arrangement

In general, if an employee is entitled to receive income in the current year, it doesn't matter for tax purposes whether they choose to take that income in a later year – the income will still be reportable and taxable in the current year. Deferring the receipt of income and taxing it under a salary deferral arrangement (SDA) is only possible if:

- the employee's right to defer income is subject to substantial condition(s), and
- the employee has a substantial risk of not satisfying the condition(s) and forfeiting their right to the deferred income.[13]

If the requirements for an SDA are not satisfied, the employee will be taxed on their deferred income, even if they have not received it. As a result, care must be taken in creating a shared ownership arrangement so that it cannot be construed as an SDA.

Buy-sell agreements

Although term insurance is often used to fund buy-sell agreements, it has the following disadvantages:

- premiums increase at each renewal
- insurance coverage cannot be combined with tax-sheltered savings

For these reasons, a cash value life insurance policy may be a preferred funding choice. There are many ways to set up a shared ownership strategy using cash value life insurance for a buy-sell agreement. The most popular method is for the corporation to own the pure insurance death benefit and the shareholder to own the fund value, either personally or through a holding corporation.

Arrangements for a family situation

The most common use for a shared ownership arrangement in a family situation is to share the benefits of the policy between two or more generations of one family.

Typically, parents or grandparents will use a shared ownership arrangement to provide life insurance coverage for an adult child or grandchild[14], while using the policy cash value to help fund their own retirement[14].

The strategy works like this. The adult child and parents (or grandparents) apply for a life insurance policy on the child's life. Under the shared ownership agreement, the child will own the pure insurance part of the policy, while the parents or grandparents will own the policy cash value. The child will be entitled to designate beneficiaries for an amount of the death benefit equal to the pure insurance part of the policy, while the parents/grandparents will be entitled to designate themselves as beneficiaries for the policy cash value.

The child will pay their share of the premiums based on the cost of an equivalent term or permanent life insurance policy. The parents/grandparents pay the balance of the premiums.

The parents/grandparents will have a right under the agreement to access the policy cash values through withdrawals, policy loans or collateral loans to help fund their retirement.

The arrangement ends if the child dies before the parents or grandparents. At that point, the beneficiaries receive their death benefits according to the policy designations. The parents' or grandparents' share will be reduced by any amounts they have accessed and not repaid.

Typically though, the parents or grandparents will die before the life insured child. When one parent or grandparent dies, their interest in the life insurance policy under the shared ownership arrangement can transfer tax-free to the surviving spouse under subsection 148(8.2), as long as both spouses were resident in Canada immediately before the death. When the last surviving parent/grandparent dies, their interest in the policy can transfer tax-free to the adult child under subsection 148(8).

To facilitate these transfers, the parents or grandparents should each designate the survivor between them as a contingent owner to receive their interest in the life insurance policy at death. They also should designate the adult child as the contingent owner if the parent/grandparent dies with no surviving spouse.

A variation of this arrangement is possible if the adult child and their grandparents are the parties to the shared ownership arrangement. When the last of the two grandparents die, they could designate their child (who also would be the parent of the life insured adult child) as contingent owner. That transfer would be tax-free under subsection 148(8) because the recipient of the grandparent's interest in the policy would be their child. There is no requirement under subsection 148(8) that the policy owner and life insured person be the same child, as long as they both are children under the Act.

[13] ITA s. 248(1).

[14] An adult child/grandchild includes those who can apply for and sign an application on their own. The age at which a child/grandchild can apply for insurance varies by province.

A spousal transfer of the cash value part of the policy under subsection 148(8.2) at the parent level could also be possible under this arrangement.

Under this variation of the strategy, at the death of the last parent or grandparent, the cash value part of the policy would be transferred to the adult child under subsection 148(8). Since the policy now will be owned entirely by the child or grandchild the shared ownership arrangement will end.

Another inter-generational income planning strategy is for the parents or grandparents to insure their own lives and own the pure insurance death benefit, with the child owning the fund value. The parents/grandparents can use the death benefit to cover their own needs for life insurance at death, while the death benefit equal to the fund value accumulates for the benefit of the child.

If the child is a minor, the attribution rules[15] apply to such an arrangement unless the child delays taking withdrawals or policy loans until they reach the age of majority in their province or territory.

Legal framework for shared ownership agreements

Life insurance policy

Shared ownership arrangements involve two contracts – the life insurance policy and the shared ownership agreement – and two sets of rules:

1. Provincial life insurance legislation governs the insurance contract and the relationship between the policy owner and the life insurance company.
2. Common law or civil law rules govern the shared ownership agreement and the relationship between the co-owners of the insurance policy.

Under provincial laws, the life insurance policy is a contract in which the insurer agrees to pay a benefit on the death of the insured person in return for premiums. The rights of irrevocable beneficiaries or, if the policy is pledged as security for a loan, collateral assignees (creditors under a moveable hypothec in Quebec), may limit the policy owner's rights. In addition to specific life insurance legislation, other provincial laws addressing contracts, powers of attorney and rights of trustees may impact a shared ownership arrangement.

The shared ownership agreement

Common law or civil law rules govern the shared ownership agreement. The insurance company is not a party to it. The agreement sets out the terms governing the relationship between the parties, and includes provisions addressing:

- paying premiums designating beneficiaries
- contingent ownership and joint ownership survivorship rights
- decision making and instructions about the policy cash value and/or investment accounts
- withdrawals, policy loans and collateral assignments (moveable hypothec in Quebec)
- the length of the sharing arrangement conflict resolution
- terminating the agreement

An agreement checklist is included in Appendix C. You can also view a draft outline of a sample shared ownership agreement at www.sunlife.ca/advisor.

Administering the life insurance contract

The life insurance company will administer one contract, regardless of the number of owners, and will accept only one set of instructions about the policy. It will not administer the shared ownership agreement. All owners will be required to authorize all transactions unless they grant one party the right to make decisions by a power of attorney (mandate in Quebec)[16] or equivalent document.

[15] Subsection 74.1(2) of the ITA.

[16] Depending on the province, due to statutory limitations, insurers may not carry out requests to change a beneficiary by a power of attorney.

Tax issues for shared ownership agreements

Shared ownership insurance agreements raise a number of tax issues. One of the most important is how to share both the costs and the benefits in a way that avoids adverse tax consequences for the parties.

Taxable benefits

Appendix B includes four methods used to share the costs of an insurance sharing arrangement for either a shared ownership or shared benefit agreement.

Taxable benefit to an employee

ITA section 6 establishes the rules for including taxable benefits from an office or employment in an employee's income. For group term life insurance, an employee must include the prescribed amount in income.[17] If the employer pays the employee's premiums for an individually owned policy, the premiums paid are the taxable benefit. If the premiums are a reasonable business expense they may be deductible to the employer.[18]

If an employer pays premiums for an employee's coverage, but the employer or someone related to the employer is the beneficiary, the premiums are not deductible, though the premiums may still be a taxable benefit for the employee.[19]

Taxable benefit to a shareholder

ITA subsection 15(1) establishes the rules for taxing benefits to shareholders. If an employee is also a shareholder of a corporation and receives a taxable benefit, the CRA will treat it as a shareholder benefit rather than an employee benefit, unless persuaded that the shareholder has received the benefit in their capacity as an employee, not as a shareholder. Taxable benefits to shareholders are more costly for both the individual and the employer than taxable benefits to employees because:

- the employer cannot claim an income tax deduction or a credit to its refundable dividend tax on hand account (RDTOH)
- the shareholder cannot treat the payment as a dividend, cannot take advantage of the dividend tax credit and is therefore taxed as if the benefit was regular income

Prepayment or limited number of deposits

Because future earnings may be unpredictable, an employer may decide to prepay insurance premiums under a shared ownership arrangement when it has available cash. In such circumstances, a taxable benefit is likely to occur. A well-documented request for an advance tax ruling should be submitted to the CRA to avoid unexpected adverse tax consequences for both the employer and the employee or shareholder.

Taxation - disposing of an interest in a life insurance policy

Taxable dispositions of an interest in a life insurance policy can occur either during the insured person's lifetime or on their death.

Dispositions during the insured person's lifetime

- Taxable dispositions during the insured person's lifetime occur when:
- one policy owner transfers their interest to another owner or to a third party, policy loans, withdrawals or surrenders take place

In most cases the parties to a shared ownership arrangement won't deal with each other at arm's length. In those cases, if one owner transfers their interest in a life insurance policy to the other, they will be deemed to have disposed of their interest in the policy for proceeds equal to the greatest of that interest's ACB, CSV or the FMV of what the other party gives them for their interest in the policy. The amount by which the proceeds of disposition exceed the interest's ACB is the taxable gain that the transferor must include in income.

[17] ITA subsection 248(1), c.f. "personal or living expenses" and paragraph 18(1)(h).

[18] $971,190 for 2023, indexed annually for inflation.

[19] CRA Document 2001-0089935, dated September 5, 2001.

The transferee must then set the ACB of their just acquired interest in the policy equal to the proceeds of disposition for the transferor immediately before the transfer. Note also that the transferor may have to determine the ACB of their interest in the policy on their own. A life insurance company will report ACB for the policy as a whole, not the ACB of a party to a shared ownership agreement.

Owing to the complexity of the tax consequences associated with this type of transfer, the parties will need to consult with their tax and legal advisors to ensure that the transfer and receipt of their interest in the policy are properly accounted for.

Disposition on death

If a shared ownership agreement is in place on the death of the insured person, no taxable disposition occurs because the death benefit, including the fund value, is paid tax-free to the beneficiaries. However, the policy cash value owned by a corporation affects the FMV of the corporation's shares, and therefore affects the value of those shares for capital gains tax purposes.[20] The fund value's FMV will equal the policy's CSV immediately before death when the life insured person is a shareholder or someone not dealing at arm's length with the shareholder.[21]

Calculating adjusted cost basis (ACB)

ITA subsection 148(9) defines a life insurance policy's ACB. The detailed calculation is complex. It depends on whether the policy was last acquired between December 1, 1982 and December 31, 2016, or whether the policy was issued after December 31, 2016. Having said that, the ACB generally is the total of the premiums paid less the net cost of pure insurance (NCPI), and cannot be a negative value. The insurer will usually provide the policy owner with the policy's ACB. However, if a shared ownership agreement is in place, the insurer may not be aware of the details of the sharing arrangement, so the policy statement may not apportion the ACB between the owners.

The CRA has stated that it believes that the insurer will prepare separate T5 slips to report any gains that each owner realizes on the disposition of their interest in the life insurance policy.[22] However, since the insurer is not a party to the shared ownership agreement, and does not have access to the parties' financial records, it will not be able to prepare those T5 slips. At best, the insurer will be able to produce a T5 slip that reports the taxable gain (if any) to the policy owner named in the insurer's records. But the insurer's records will probably record a tax position different from the position the parties have tried to achieve through their shared ownership agreement. Since only the parties' records will be able to support that tax position, and since the insurer cannot defend the integrity of those records in a CRA audit, the parties will need to determine their respective CSVs and ACBs in the policy using their own records, and report their tax positions to the CRA.

There may be situations where the cash value owner will receive almost the entire ACB of the policy. For example, if the cash value owner has no interest in the pure insurance death benefit, and owns only a death benefit equal to the policy cash value, the NCPI for the cash value owner should be nil because the life insurance company has no amount at risk in respect of the cash value part of the death benefit. The pure insurance death benefit owner will have the full NCPI deduction as part of the ACB calculation for their interest in the policy. This is significant when a corporation owns the pure insurance part of the death benefit because only the proceeds in excess of the ACB can create a credit to the corporation's CDA. The smaller the ACB, the higher the CDA credit, and the more money from that death benefit that can be paid to shareholders as a tax-free capital dividend. Conversely, the higher the ACB for the cash value owner, the more of the cash value that is accessible tax-free.

Deductibility of premiums

Pure insurance death benefit owner

For accounting purposes, the full amount is expensed when the premium is paid, and then is added back into income for tax purposes at year-end. For tax purposes, life insurance premiums are generally not deductible. However, if the employer pays the employee's premium cost, the employee will have to include the premium amount in income, and the employer may be able to deduct that amount, provided it's a reasonable business expense.

Further, if a financial institution lends money to the policy owner and requires an assignment of the life insurance policy as collateral for the loan, the lesser of premiums paid and the policy's NCPI may be deductible. There are other requirements for deductibility.

[20] $971,190 for 2023, indexed annually for inflation.

[21] Subsection 70(5.3). This subsection refers to the cash surrender value of the policy, not an interest in the policy.

[22] CRA Document 2001-0089935, dated September 5, 2001.

Documents required for a shared ownership strategy

To implement a shared ownership strategy, you will need the following documents:

- corporate resolutions authorizing the corporation to enter into a shared ownership agreement
- shared ownership agreement
- life insurance application
- transfer of ownership form, unless both owners have signed the life insurance application
- beneficiary designation in the signed life insurance application form, designating beneficiaries for each of the pure insurance death benefit and the death benefit equal to the fund value
- if beneficiaries are not designated in the original life insurance application form, or if the parties are creating a shared ownership agreement using an existing policy, or if the parties wish to change an existing beneficiary designation, the beneficiary designation form must be signed by both owners designating beneficiaries for each or either of the pure insurance death benefit and death benefit equal to the fund value
- power of attorney[24] (mandate in Quebec) if decisions are to be made by one owner

Fund value or CSV owner

The money paid to the fund value of a universal life insurance policy is part of the life insurance premium and is not deductible from taxable income.

Life insurance proceeds and the CDA

If a corporation is a beneficiary of a life insurance policy, and the life insured dies, the portion of the life insurance proceeds the corporation receives that exceeds the policy's ACB is included in the CDA of the corporation.

If two or more corporations are beneficiaries under the same life insurance policy they will each have to include the policy's full ACB in calculating their respective CDAs, even though this leads to counting the ACB more than once. [23]

[23] CRA document 2018-0745811C6, May 8, 2018.

[24] Depending on the province, due to statutory limitations, insurers may not carry out requests to change a beneficiary by a power of attorney.

Shared Benefit

Shared benefit arrangements are usually created for employers who want to provide additional benefits specifically designed to recruit, reward and retain key employees, often by creating an arrangement that will supplement an employee's retirement income.

Common options for funding retirement income are "pay as you go", where the employer pays an employee's retirement income from current cash flow during the employee's retirement, and an individual pension plan (IPP).

A shared benefit insurance agreement can allow an employee to build funds that can supplement an employee's retirement income while protecting the business against that person's premature death.

Shared benefit arrangements

This strategy is designed for key employees or owner/managers who have:

- maximized RRSP, TFSA and pension plan contributions
- minimized non-deductible debt
- a need for additional retirement income
- 10 to 15 years until retirement income is needed

And for employers who want to:

- protect against the loss they will incur if a key employee dies
- create additional benefits to recruit, reward and retain employees

Implementation

Employee purchases a SunUniversalLife policy

↓

Employee and employer enter into an agreement governing the arrangement

↓

Employee named the beneficiary of the fund value	Employer is named irrevocable beneficiary of the face amount portion of the death benefit
↓ Fund value	↓ Death benefit

How it works

Key employee or owner-manager buys universal life policy and makes annual payments to the fund	**Key employee/owner** names company irrevocable beneficiary for the face amount death benefit	**Company** pays annual amount to cover the cost of insurance (COI)

Benefits of a **SunUniversalLife** policy

Fund value	**Face amount death benefit**
• Source of funds to provide retirement income • Accumulations are tax-preferred	• Tax-free at death • Covers replacement costs • Creates tax-free dividends for private corporations

Fund value

- the employee pays for contributions to the fund value to build a tax-preferred retirement fund. Alternatively, the employer pays the employee's contributions, and treats them as taxable benefits to the employee, and potentially deductible to the employer
- on retirement, the employee can access the funds either by:
  - directly withdrawing from or taking a loan from the policy (may be taxable)
  - taking a loan from a lending institution against the policy fund value (not taxable)
- Pure insurance death benefit

the employer pays for the pure insurance death benefit to protect the company against the loss of a key person

if the employee/shareholder dies, proceeds in excess of the employer's ACB of its interest in the policy are credited to its CDA and can be paid out to its shareholders as tax-free capital dividends

when the term of the agreement ends or the employer no longer requires the insurance, it agrees to change the beneficiary to a person the employee/shareholder selects. The employer's release of its irrevocable designation could be a taxable benefit to the employee.

Legal framework for shared benefit agreements

Two of the issues you will need to address in the shared benefit agreement are a change of beneficiary and the terms of the agreement.

Change of beneficiary

The shared benefit agreement should set out when the employer's rights expire, and that the employer will agree to a change of beneficiary when the agreement expires. The employee can then appoint a new beneficiary according to their estate plan.

Terms of agreement

Terms of the agreement may depend on whether the key employee is also a shareholder of the corporation.

If the key employee is not a shareholder:

In most cases, the employer will only want life insurance on the key employee during the period of employment. The agreement may be structured as a fixed term agreement, with renewal provisions if the period of employment is extended. The employer is less likely to have unexpected adverse tax consequences by structuring the agreement as a fixed term agreement because the agreement has no value and there will be nothing to transfer to the employee on expiry.

The agreement should also address the possibility that the relationship between the employee and the employer might terminate for reasons other than the employee's retirement. The agreement will usually provide that if employment ends before retirement, the employer will stop paying for the insurance protection and will change the beneficiary.

If the key employee is a shareholder:

The employer may need permanent insurance on the life of the shareholder as part of a business succession plan, The wording of the agreement should reflect the particular circumstances applicable to the parties. Otherwise, an agreement for a fixed term with provisions for renewal may also be appropriate for a shareholder.

An agreement checklist is included in Appendix C. You can also view a draft outline of a sample shared benefit agreement at www sunlife.ca/advisor.

Taxable benefits to employees or shareholders

The issues for taxable benefits under a shared benefit agreement are the same as those under a shared ownership agreement, and are discussed in the shared ownership "tax issues" section of this guide.

Tax treatment of the death benefit

If the insured person dies during the term of the agreement the insurer will pay the death benefit directly to the beneficiaries. The pure insurance death benefit is paid to the employer tax-free. The amount of the proceeds received by the company less the ACB, if any, creates a credit to the company's CDA. The employee's beneficiary receives a tax-free benefit equal to the policy's fund value.

Deemed RCA

The parties must be careful in drafting the shared benefit arrangement to not create a deemed RCA. See the discussion above on deemed RCAs arising under split dollar arrangements.

Tax implications of using an insurance policy to create retirement income

There are three ways to create income from the policy[25]:

1. Withdrawals and policy loans

Withdrawals from a life insurance policy are included in income in proportion to the ratio of the policy's ACB to the total CSV. At some point, the ACB may be nil, and 100% of the withdrawals will be taxable to the life insurance policy owner. Actual investment returns on the funds within the policy will determine the amount of money available for withdrawal.

Policy loan tax treatment differs from withdrawal tax treatment, since the policy ACB is reduced by the amount of the loan. Therefore, if the policy loan is less than the ACB, no taxation will occur.

However, when the policy loan exceeds the ACB, the excess of the policy loan over the ACB is taxable.2.

2. Policy surrender

At the end of the arrangement the policy owner can surrender (terminate) the policy and receive the entire cash value. The policy will no longer exist. The tax treatment will be the same as the policy withdrawals although the entire cash value will be taken all at once instead of over time.

3. Loans from a third-party provider

Loans[26] from a third-party financial institution, using the policy as collateral, are not taxable. Some lenders are prepared to capitalize the interest on these loans and will not require repayment of the accumulated loan until the insured person's death. There are risks associated with this strategy beyond the usual investment risks, including a mismatch of interest rates and the possibility of future changes to tax rules, as well as potential changes to the lender's lending rules.

Ending a shared benefit agreement for reasons other than death

If a shared benefit agreement terminates for reasons other than death, the insured person will appoint a new beneficiary according to the agreement. If this occurs, there is no disposition of the policy because a change of beneficiary is not a taxable disposition. If the employer has prepaid costs or has another claim to values, such as prepaid levelized premiums in the policy, those values will likely constitute a benefit to the employee or shareholder, unless they purchase them from the employer at their FMV. Additionally, the CRA could treat the release of the employer's interest in the death benefit as a transfer of part of the life insurance policy to the employee, which also could be taxable.

Documents required for a shared benefit strategy

To implement a shared benefit strategy, you will need the following documents:

- life insurance application
- shared benefit agreement
- corporate resolutions authorizing the corporation to enter into a shared benefit agreement
- irrevocable beneficiary designation form

An agreement checklist is included in Appendix C . You can also view a draft outline of a sample shared benefit agreement at www.sunlife.ca/advisor.

[25] The tax treatment described here applies to individually owned policies. Different considerations apply to policies subject to a shared ownership or benefit agreement.

[26] See Sun Life Financial's "An advisor's guide to leveraging life insurance" for more information on the pros and cons of this option.

Appendix A

Key differences between shared ownership and shared benefit strategies

This table compares some of the key features of these two methods of sharing interests in a life insurance policy:

	Shared Ownership	Shared Benefit
Ownership	• Employer/corporation and individual own different elements of the policy.	• Individual is the sole owner.
Creditor protection	• Personally owned portion with an eligible named beneficiary may be creditor protected. • Portion owned by employer/ corporation may not be creditor protected.	• Personally owned policy with an eligible named beneficiary may be creditor protected. • If the employer/corporation is the irrevocable beneficiary, the death benefit payable to • the employer/corporation may be creditor protected.
CDA credit	• Death benefit payable to an eligible Canadian-controlled private corporation in excess of the policy ACB, if any, could be credited to the corporation's CDA.	• Death benefit payable to an eligible Canadian-controlled private corporation in excess of the policy ACB, if any, could be credited to the corporation's CDA.
Change to sole ownership	• Disposition triggers tax on policy gain as well as a taxable benefit to employee/ shareholder.	• No disposition since the individual is already the sole owner. • Potential taxable benefit arising from individual's acquisition of right to name a beneficiary arising from employer's relinquishment of that right.
Ownership change when health is impaired	• Transferring owner will have to include greater of policy CSV or FMV of what they were paid for the policy, minus ACB, in income.	• Transferring owner will have to include greater of policy CSV or FMV of what they were paid for the policy, minus ACB, in income. Depending upon the structure of the agreement, the taxable benefit to the employee/shareholder may or may not apply.
Leveraging the cash value	• May be an employee/ shareholder benefit if the employer/corporation is still the co-owner of the policy.	• The individual is the sole owner.
NCPI deduction	• Possible if lending institution requires collateral assignment, loan interest is deductible, and other requirements are met.	• Possible if lending institution requires collateral assignment, loan interest is deductible, and other requirements are met.

Appendix B

Methods to share the costs of an insurance sharing arrangement

The various methods to share life insurance policy interests described in this document provide the reader with examples only. None of these sharing methods have been tested or otherwise recognized or acknowledged by the CRA. A life insurance policy shared interest strategy must be implemented very carefully with the assistance of knowledgeable legal and tax experts. To avoid adverse tax consequences, you should request an advance tax ruling from the CRA.

Here are the four most common methods used to share the costs of an insurance sharing arrangement for either a shared ownership or shared benefit agreement outlined below, described in a business context. These arrangements may be appropriate for both business and family scenarios. For family scenarios, the parent/grandparent assumes the role of employer and the children assume the role of the employee. The ITA allows for the tax-free transfer of ownership from a parent or grandparent to their respective spouses or common-law partners, and to a child or grandchild. The rules are complicated, so it's important to check with a tax professional.

1. Cost of insurance (COI) method (UL policies only)	
Structure	• The employer/corporation pays for the pure insurance death benefit as specified in the insurance policy. The employee/shareholder pays the balance of the planned deposit or premium.
Tax discussions to the employee/ shareholder	• If the employer/corporation pays a yearly renewable term (YRT) cost, there will unlikely be any taxable benefit, since this represents the actual cost of the pure insurance death benefit for the employer/ corporation each year. • If the employer/corporation pays a level term cost, it is paying more than the true cost of coverage in the early years and less in later years. The excess amount paid in the early years could be treated as a taxable benefit. • At the insured person's death, the employer may credit its share of the death benefit (minus the ACB of its interest in the policy) to its CDA. • Each party pays its respective share of the premium tax.

2. Net cost of pure insurance (NCPI) method	
Structure	• The employer/corporation pays the NCPI and the insured employee/ shareholder pays the balance of the planned deposit or premium.
Tax discussions to the employee/ shareholder	• The NCPI is a notional amount defined in the ITA that, in theory, represents the actual cost of the mortality risk. Its cost will be slightly lower than a YRT cost in the early years, but will be higher in later years. • If the employer/corporation pays an NCPI cost, there is unlikely to be any taxable benefit to the employee/shareholder since this represents the actual mortality cost each year. • At the insured person's death, the employer/corporation may credit its share of the death benefit (minus the ACB of its interest in the policy) to its CDA. • Each party pays its respective share of the premium tax.

3. Level NCPI method	
Structure	• The employer/corporation pays the average NCPI over the term of the deposit period, with or without a discount rate. It results in a level cost in contrast to the annually increasing cost of YRT or NCPI. • The employee/shareholder pays the balance of the planned deposit or premium.
Tax discussions to the employee/ shareholder	• The employer/corporation will be paying slightly more than the NCPI in the early years and less in later years. As with paying a level cost of insurance (option 1 above), the excess over the actual NCPI in the early years could constitute a taxable benefit. If the agreement provides for the recovery of any prepayment by the employer on the employee/shareholder's death or on the agreement's termination, it is possible that there has been no taxable benefit. • At the insured person's death, the employer/corporation may credit its share of the death benefit (minus the ACB of its interest in the policy) to its CDA. • Each party pays its respective share of the premium tax.

4. Specified amount method	
Structure	• The employer/corporation pays a specified amount, and the employee/ shareholder pays the balance of the planned deposit or premium.
Tax discussions to the employee/ shareholder	• This option allows the employer/corporation to set the amount paid. If the rationale for choosing this amount is consistent with the terms of the agreement, then there may be no taxable benefit. It is recommended that you apply for an advance tax ruling to avoid any adverse tax consequences. Here are two examples: – The term of the agreement is 20 years with provision for a renewal. The employer/corporation pays an annual cost equal to the premium for a 20-year term insurance policy available in the marketplace. It is unlikely there would be a taxable benefit in this scenario. – The term of the agreement is for 10 years with provision for renewal. The employer/corporation pays an annual amount equal to a 20-year term insurance policy, which is more than the premium for a 10-year term. As the employer/corporation is paying more than a reasonable amount for the insurance protection, the difference would likely be a taxable benefit. • Since the parties decide the respective amounts of premium that they are going to pay without reference to the policy's fund value or pure insurance death benefit, they are also free to specify in their allocations the amount of premium tax they will each pay.

Appendix C

Shared ownership/shared benefit agreement checklist

A shared ownership/shared benefit agreement should include the following:

Date: ______________________________

Between: ______________________________

Strategy:

- ☐ Shared onership
- ☐ Shared benefit

Goals and objectives:

Duration and renewal of the agreement: ______________________________

Insurance product: ______________________________

Method for

- ☐ Allocating premiums
- ☐ Allocating benefits
- ☐ Designating beneficiaries

Policy transactions:

- ☐ Decision making
- ☐ Premium payments
- ☐ Policy loans
- ☐ Bookkeeping
- ☐ Investment selection
- ☐ Corporate resolutions
- ☐ Collateral assignments (hypothecation in Quebec)
- ☐ Power of attorney
- ☐ Policy withdrawals

Resolution of conflicts:

- ☐ Mediation
- ☐ Litigation
- ☐ Arbitration

Termination of the agreement:

- ☐ Cause of the termination
- ☐ Penalties in case of breakdown of the agreement
- ☐ Transfers
- ☐ Division of policy

General provisions:

- ☐ Jurisdiction

Disclaimer

CRA position on shared insurance arrangements

This document provides the reader with generic information about the different concepts and methods of sharing of an interest in a life insurance policy. On a number of occasions, the CRA has formally stated that the following elements must be considered before implementing a life insurance shared interest strategy:

1. Each situation must be considered on a case-by-case review of the terms of the particular life insurance policy and the rights that have been made available to someone other than the original owner of the policy. (CALU, Tax Policy Round Table 1992, Question 7 and 1998, Question 6)
2. These strategies could create an employee or shareholder taxable benefit under the ITA Paragraph 6(1)(a) and Subsection 15(1). (Revenue Canada Taxation, Letter from Directorate, October 25, 1988)
3. It is a question of fact whether a benefit is received. No benefit will be created if each party to the agreement pays a premium equal to the premium for comparable rights available on the market under a separate insurance policy. The benefit to be included in the employee/ shareholder's income is the amount by which the premium cost for equivalent term coverage exceeds the premium paid. (CTF, Revenue Canada Round Table, 1992 Prairie Provinces Tax Conference, Question 16)
4. Assignment of the interest by the original owner to a third-party employee, shareholder or corporation is a "disposition" of an interest in a life insurance policy under ITA subsection 148(9) [now ITA subsection 148(7)], the taxable portion of which must be included in the original owner's income tax return for the year under ITA paragraph 56(1)(j). The FMV of the specific rights that have been assigned to a third-party employee or shareholder would constitute a taxable benefit under ITA paragraph 6(1)(a) and/or subsection 15(1) and taxed accordingly.[27] Whether or not a taxable benefit to the employee or shareholder takes place is a question of fact. However, the CRA may confirm that no taxable benefit arises when the premium paid by the employee or the shareholder under the policy is equal to the premium for comparable rights available in the market under a separate insurance policy. (CALU, Tax Policy Round Table 1992, Question 7)
5. As a general rule, CRA advance tax rulings are provided to confirm tax implications inherent to particular situations. With "shared ownership" insurance arrangements, the CRA has identified information that would be required as well as some of the specific concerns that would need to be addressed. Here is some of the information that would be needed:

- an illustration of the proposed insurance policy describing at a minimum:
  - the pure insurance death benefit
  - cash surrender values or accumulations within the policy
  - premiums
- the age of the insured person and his or her state of health the signed agreement
- a description of how the policy's premiums and benefits will be allocated, and the calculation method used in the sharing agreement
- evidence of the premium amount that the employee would be required to pay if they were to privately obtain coverage comparable to that retained by them
- any other relevant documents

It is necessary to establish whether each of the employer/ corporation and employee/shareholder has an interest in the policy. This is relevant in determining not only the nature and the income tax treatment of payments made by each of the parties, but the nature and income tax treatment of the payment received by each of the parties.

The CRA assumes that the reason for entering into this agreement is a cost reduction from what would be the total premium if two separate policies were acquired. It would require evidence of how this saving will be determined and how it will be shared between the two parties.

(CRA document 2001 - 0072757, CALU Tax Policy Round Table 2001, Question 10)

The various methods used to share life insurance policy interests described in this document provide the reader with examples only. None of these sharing methods has been tested or otherwise recognized or acknowledged by the CRA. A life insurance shared interest strategy must be implemented very carefully with the assistance of skilled legal and tax experts.

To help minimize or to avoid adverse tax consequences, request an advance tax ruling from the CRA.

[27] A corporation or an employer providing the benefit is under obligation to report the nature and size of the employee/shareholder benefit typically by way of a T4 slip. Under the Canadian self-assessing tax system, an employee or a shareholder has the duty to report the taxable benefit in his or her T1 for the year it is conferred even if the corporation or the employer neglects to report the benefit.

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