

Life insurance proceeds for the benefit of minors (Quebec version)

Parents sometimes decide to name their minor child as beneficiary of their life insurance policy. This practice is especially common in divided families. This article explains what you should know about appointing a minor as beneficiary. It also outlines other options that may be wiser, depending on your situation. **This article applies specifically to residents of Quebec.**¹

Naming a minor as the beneficiary of your policy

In most circumstances, parents or tutors are responsible for administering a minor's estate. On your death, the proceeds of your insurance policy will be paid out to the surviving parent (potentially your "ex"), who will be responsible for administering the money.² If your vision of your child's needs differs from that of the surviving parent, the outcome could be very different from what you had intended. And that's not the only issue to consider.

If your child's estate is greater than \$40,000, a tutorship council³ must be formed to oversee the administration of the money. Forming this council and the supervisory duties it performs could give rise to significant family conflict. There will also be associated delays and expenses to keep in mind.

You should be aware that a tutorship will end when your child reaches the age of majority. This means that your child may receive a large sum of money when they turn 18. There would be no restrictions on the proceeds and they could use the money however they like.

Perhaps you would like to appoint someone other than the surviving parent or tutor to administer the insurance proceeds on behalf of your child. That's not considered valid for insurance products in Quebec. Keep this in mind when you examine beneficiary designation forms provided by some insurance companies, which may lead you to think otherwise.⁴

Are there any benefits, then, to appointing a minor as beneficiary of a life insurance policy? Creditor protection is one. The Civil Code of Quebec states that a child (whether a minor or an adult) is a preferred beneficiary. By naming your child as beneficiary of your life insurance policy, it becomes exempt from seizure by your creditors or your estate's creditors.

Naming your estate as beneficiary of your policy

Naming your estate as beneficiary of your life insurance policy gives you more flexibility.

In your will, you can name an administrator who is not the surviving parent or tutor to manage the bequest to your child. As long as this is clearly stated in your will, a tutorship council would not be required. You can also specify in your will the age at which your child will receive the proceeds. Other property you bequeath to your child can be managed according to the same instructions, or not.

By naming your estate as beneficiary of your insurance policy, however, you lose the protection you would otherwise have from your creditors and your estate's creditors. If there is a claim by a creditor, such as the tax authorities or an ex-spouse, the money you had planned to leave to your child could be much less.

The rights and obligations of an administrator of the property of others (including minors) are set out in the Civil Code of Quebec. Your legal advisor can determine if this type of administration is right for your situation. If that's the case, ask them to include the appropriate wording in your will.

Naming a trust as beneficiary of your policy

You can set up a trust, either during your lifetime or in your will, to receive the proceeds of your life insurance. The trust can be drafted specifically to manage the insurance proceeds on behalf of your child. You can use a trust for other purposes as well, such as an estate freeze.

By designating a trust to manage your life insurance proceeds, you get the same benefits as described in the previous section: flexibility in your choice of trustee(s), no tutorship council and use of the proceeds according to your written instructions. But be careful: the trust must be valid. To be legally valid, a trust created in your will must receive a bequest from your estate. Naming a trust as beneficiary in your insurance policy is not sufficient to create a valid trust. Proper trust clauses will need to be included in your will.

Naming a trust created during your lifetime as beneficiary of your life insurance policy can provide an additional benefit: confidentiality. Your estate liquidators and other heirs who are not involved in the trust do not need to be informed when - and how much of - a death benefit is paid out by the insurance company.

Be aware that naming a trust as beneficiary of your policy does not automatically protect it from your own creditors. On your death, however, the trust will protect the insurance proceeds from your estate's creditors. Property included in the trust's estate will also be protected from your child's creditors. Finally, you can exclude the trust property you leave to your child from their future matrimonial regime.

A trust is a reliable and versatile legal instrument, but it's also more complex. You will need to seek legal advice. Your financial or insurance advisor can work with you and your legal advisor to properly document your beneficiary designation.

Summary

Life insurance can provide your children with financial security when you die. If your children are minors, you should understand the legal and financial impacts of appointing a minor as your policy beneficiary. There are other options. Your financial or insurance advisor can work with you and your legal advisor to develop and document the solution that best suits your needs.

Disclaimer

This article provides general information only. Sun Life Assurance Company of Canada does not provide legal, accounting or taxation advice to advisors or clients. Before you act on any of the information contained in this article, make sure you seek advice from a qualified professional, including a thorough examination of your specific legal, accounting and tax situation. Any examples or illustrations used in this article are included only to help clarify the information presented in this article, and should not be relied on in any transaction.

Published and revised by: Estate & Financial Planning Services

Last revised: November 2024

© Sun Life Assurance Company of Canada, 2024.

Sun Life Assurance Company of Canada is a member of the Sun Life group of companies.

¹ Quebec is a civil law jurisdiction. The Civil Code of Quebec has its own specific provisions, including provisions on beneficiary designations, administration of the property of others and trust law. If you reside in a common law province, you should read **Leaving life insurance proceeds to a minor beneficiary or trust**.

² Unless the other parent dies before you or is deemed incapable by a court. In that case, the court will appoint a tutor.

³ Consisting of three of the child's family members (aunts, uncles, grandparents, for example).

⁴ Designating an administrator for a minor is generally allowed in other Canadian provinces. Not all forms have been worded to incorporate the particularities of Quebec civil law.