Sun Life

Life insurance transfers: quick reference guide

Transferring a life insurance policy from one owner to another is a disposition under the Income Tax Act (ITA). This may result in (1) a taxable policy gain for the transferor and/or (2) a tax event for the recipient. This quick reference guide shows the tax implications of some common transfers. For a more detailed analysis, see Sun Life's "**Tax implications when transferring ownership of a life insurance policy**" guide.

Non-arm's-length transfers versus arm's-length transfers

The ITA has specific rules when transfers occur between non-arm's-length persons. It deems related persons to be non-arm's length. Related persons include:

- Individuals connected by blood relationship:
  - a parent and child or other descendant such as a grandchild or great-grandchild.
  - brother and sister.
- Individuals connected by marriage or common-law partnership:
  - a spouse or common-law partner.
  - those connected by blood relationship to a spouse or common-law partner (e.g., in-laws).
- Individuals connected by adoption.
- Individuals, corporations and trusts where:
  - in the case of a corporation, a person or related group of persons controls the entity or is related to a person who controls the entity. The Canada Revenue Agency (CRA) has detailed rules to determine control.
  - in the case of a personal trust, a person or related person has a beneficial interest in the trust.

The ITA also says unrelated persons can be non-arm's length if the facts show they are not at arm's length. This can happen where there's a common mind directing the bargaining of both parties. Or, if the two persons act in concert without separate interests. Or, if one has factual control over the other. All other persons deal at arm's length.

For transfers in Quebec, the recipient needs an insurable interest or consent of the insured to complete the transfer.

Non-arm's-length transfers

You calculate the taxable policy gain for transfers after March 21, 2016, between non-arm's-length persons as follows:

Taxable policy gain = "proceeds of the disposition" minus the adjusted cost basis (ACB)

"Proceeds of the disposition" is the greatest of the policy's:

(1) cash surrender value (CSV),
(2) ACB, and
(3) fair market value (FMV) of any consideration given. FMV of consideration given represents any value given by the recipient in exchange for the policy. This may be cash, another asset, a promissory note, or other item of value. It's not the same as FMV of a policy (discussed below).

A taxable policy gain is fully taxable to the transferor (it is not a capital gain). When there's no consideration and the ACB exceeds the CSV, the taxable policy gain is zero. After the transfer is complete, the recipient's ACB will generally be the "proceeds of the disposition." Any taxable benefit assessed to the recipient because of the transfer (see below) generally also increases the ACB.

Arm's length transfers

Between arm's-length persons, the taxable policy gain is the actual consideration paid minus the ACB. The ITA assumes the consideration paid represents FMV in transactions involving arm's-length persons. Determining "arm's length" or "non-arm's length" is a question of fact. Whether or not someone is arm's length from another person requires analysis by their tax advisors.

Use the below quick reference guide to see the tax consequences of various common transfers involving:

1. non-arm's length individuals;
2. non-arm's length corporations; and
3. an estate or trust.

Common transfers between non-arm's-length individuals

The below chart shows common transfers between non-arm's-length individuals. It assumes the recipient gives no consideration for the transfer (i.e., it's a gift). Transfers that do not meet the conditions below require further analysis.

Original owner (transferor)	New owner (recipient)	Life insured	Tax on transfer	Conditions/notes
Spouse or common-law partner	Spouse or common-law partner	Anyone	Nil (rollover at ACB)	• Both the original and new owner must be residents of Canada for tax purposes immediately before the transfer. • Can transfer directly during lifetime (*inter vivos*) but can't transfer indirectly through a trust (spousal or otherwise). • Can transfer directly at death through successor/contingent owner designation or indirectly through a policy owner's estate or on intestacy. Probate may apply. • The attribution rules may apply if the recipient spouse accesses the policy cash values following an inter vivos transfer.
Spouse or common-law partner	Former spouse or former common-law partner	Anyone	Nil (rollover at ACB)	• Both original and new owner must be resident of Canada for tax purposes at the time of transfer. • Must transfer directly during lifetime in settlement of rights arising from the relationship. For example, court order or separation agreement. • Can't transfer at death on rollover basis.
Individual	Child, grandchild, great-grandchild, stepchild, or spouse of child (son-in-law or daughter-in-law) of original owner	Child, grandchild, great-grandchild, stepchild, or spouse of child (son-in-law or daughter-in-law) of original owner	Nil (rollover at ACB)	• Life insured does not need to be the same "child" as the recipient "child." A child may also include someone under 19 wholly dependent on the transferor and in their custody. • Must transfer directly during lifetime (*inter vivos*) or at death through successor/contingent owner designation. Where the child is a minor, a guardian may hold the policy until age of majority is reached. • Can't transfer at death indirectly through an estate or trust on a rollover basis. • For stepchild, they must be a stepchild at time of transfer. If blood related spouse predeceases or is no longer spouse, stepchild relationship ends unless child is adopted.
Individual	Child, grandchild, great-grandchild, stepchild, or spouse of child (son-in-law or daughter-in-law) of original owner	Anyone other than child, grandchild, great-grandchild, stepchild, or spouse of child (son-in-law or daughter-in-law) of original owner	Taxable policy gain	• The intergenerational rollover down the family tree doesn't apply when the life insured is someone other than those listed at the time of the transfer. • For example, a parent can't transfer a policy on their own life to their child on a rollover basis.
Child, grandchild, great-grandchild, stepchild, or spouse of child (son-in-law or daughter-in-law)	Parent, grandparent, great-grandparent, stepparent, mother-in-law, or father-in-law of original owner	Anyone	Taxable policy gain	• There's no rollover when going up the family tree.
Sibling	Sibling	Anyone	Taxable policy gain	• There's no rollover between siblings.
Aunt or uncle	Niece or nephew	Anyone	Taxable policy gain	• Assuming they are non-arm's length.
Cousin or friend	Cousin or friend	Anyone	Taxable policy gain	• Assuming they are non-arm's length.

FMV of a life insurance policy

In some cases, you need the FMV of a life insurance policy to determine the tax implications on transfer. This typically arises in transfers involving corporations. FMV analysis requires a valuation by an independent actuary. Life insurance companies don't provide FMV valuations for their policies. A FMV valuation looks at more than the CSV, ACB and death benefit. See the above referenced guide for more details. The CRA states FMV of a life insurance policy includes other factors such as, but not limited to:

- the health and insurability of the life insured, and that person's life expectancy;
- any policy terms that create value (such as riders, guarantees, conversion privileges, etc.); and
- replacement value of the policy.

This FMV of a life insurance policy can produce tax consequences to the transferor and/or the recipient.

Common transfers involving a non-arm's-length corporation

Transfers of life insurance policies involving corporations depend on the method of transfer. The life insured isn't a consideration in assessing the tax in these transactions. Transferring a policy from a corporation may incur two levels of tax. First, the corporation may incur a taxable policy gain. Second, removing an asset from a corporation may result in a taxable benefit to the recipient or shareholder. Corporations can transfer life insurance policies for no value (e.g., gift or transfer). Or they can distribute them in some other method (e.g., dividend in kind). The below chart shows common transfers between non-arm's-length persons and corporations. It assumes the recipient gives no consideration for the transfer (i.e., it's a gift or distribution). Transfers that don't meet these assumptions or conditions below require further analysis.

Original owner (transferor)	New owner (recipient)	Method of transfer	Taxable policy gain for transferor	Tax for the recipient	Comments
Individual	Corporation	Gift or direct transfer for no consideration	Greater of CSV/ACB minus ACB	N/A	• Before March 22, 2016, proceeds of the disposition was deemed to be the CSV of the policy. This allowed an individual to transfer to a corporation at the FMV and remove funds from the corporation tax-free. This option is no longer available. • After March 21, 2016, proceeds of the disposition is the greatest of the CSV, ACB and FMV of consideration given. Transferring into a corporation for more than the greater of the CSV and ACB creates a larger taxable policy gain. Therefore, it's rarely done.
Corporation	Individual Shareholder	Gift or direct transfer for no consideration	Greater of CSV/ACB minus ACB	Taxable shareholder benefit for policy's FMV	• Taxable benefit reduced by any consideration paid by shareholder. • Can reduce or eliminate the shareholder benefit if corporation transfers the policy as a dividend in kind to shareholder. However, a dividend in kind is taxable to the recipient at the FMV of the policy. An independent actuary must determine the policy's FMV.
Corporation	Individual Employee	Gift or direct transfer for no consideration	Greater of CSV/ACB minus ACB	Taxable employee benefit for policy's FMV	• Taxable benefit reduced by any consideration paid by employee. • If employee is arm's length, same results apply. • Corporation may be able to deduct policy's FMV if the transfer is a reasonable business expense.
Corporation	Holding company (connected directly or through family trust)	Gift or direct transfer for no consideration	Greater of CSV/ACB minus ACB	Taxable shareholder benefit for policy's FMV	• If transferred as a redemption, the CRA treats the FMV of the shares (generally FMV of the policy) as consideration. This increases the taxable policy gain. See below for wind-up. • Tax advice needed when transferring from one corporation to another through a trust based on recent CRA Views. Additional steps may be needed to avoid a taxable disposition by the trust.
Corporation	Holding company (connected directly or through family trust)	Dividend in kind	Greater of CSV/ACB minus ACB	Nil if corporations are connected and certain conditions met. Further tax advice needed	• Dividend in kind will be at FMV of the policy and a valuation needed from an independent actuary. • If corporation is a connected corporation, a dividend in kind may be considered a tax-free intercorporate dividend. Tax advisors need to assess application of s.55(2) of the ITA which could result in adverse tax consequences. • Tax advice needed when transferring from one corporation to another through a trust based on recent CRA Views. Additional steps may be needed to avoid a taxable disposition by the trust.
Corporation 1	Corporation 2 (sister company)	Gift or direct transfer for no consideration	Greater of CSV/ACB minus ACB	Possible shareholder benefit– further tax advice needed	• ITA is not clear. The CRA indicates a possible taxable shareholder benefit to the shareholder of the recipient corporation if original owner corporation is impoverished and sole shareholder is enriched. May also be a possible indirect benefit under the ITA.
Corporation 1	Corporation 2	Amalgamation of corporations	Not a disposition	N/A	• If amalgamation meets ITA requirements, all assets of both Corporation 1 and Corporation 2 become assets of amalgamated corporation and no disposition occurs.
Subsidiary corporation	Parent corporation	Wind-up of subsidiary corporation	Nil (rollover at ACB)	Nil	• Subsidiary and parent corporation must meet ITA requirements for policy to transfer as a rollover. If not, disposition occurs at FMV of the policy. An independent actuary determines the policy's FMV.
Corporation	Individual shareholder	Wind-up of corporation	FMV of policy minus ACB	Taxable deemed dividend for policy's FMV	• The CRA indicates the disposition occurs at FMV of the policy. An independent actuary must determine the policy's FMV. • Consider transferring policy as dividend in kind prior to wind-up to avoid this result.

Common transfers involving an estate or personal trust

Transfers to and from an estate or personal trust generally occur for no consideration. A transfer to your estate can happen if you hold a life insurance policy on another person's life at your death. If there is no contingent/successor owner named, the policy forms part of your estate. The policy will transfer to your beneficiaries through your will or under intestate succession rules. You may also transfer a life insurance policy to a personal trust during your lifetime. This may happen if you wish to ensure continued management and control of a policy to meet your objectives. Finally, a personal trust may own a policy and distribute it to a beneficiary under its terms and conditions. The below chart shows common transfers involving an estate or personal trust. It assumes the estate or personal trust is resident in Canada. It also assumes the recipient gives no consideration for the transfer. Transfers that don't meet these assumptions or conditions below require further analysis.

Original owner (transferor)	New owner (recipient)	Life insured	Method of transfer	Taxable policy gain	Comments
Individual	Estate	Anyone	Deemed disposition on death	Greater of CSV/ACB minus ACB	• A taxable disposition occurs because the policy transfers to the estate. • May be able to rollover at ACB if beneficiary of estate is spouse/common-law partner (see below). • General rollover rules to a child do not apply when a policy transfers through the will or estate (see below).
Individual	Estate (and then distributed to spouse or common-law partner)	Anyone	Deemed disposition on death	Nil (rollover at ACB)	• Only a spouse/common-law partner can avail of the rollover rules when policy transfers through the will or estate. • Spouse must ultimately receive the policy as beneficiary in the will or through intestate succession rules. Can't transfer the policy to or hold in a trust.
Individual	Estate (and then distributed to a child)	Child, grandchild, great-grandchild, stepchild, or spouse of child (son-in-law or daughter-in-law) of original owner	Deemed disposition on death	Greater of CSV/ACB minus ACB	• General rollover rules to a child do not apply when a policy transfers through the will or estate to a child. • Can't transfer the policy to a trust for child on rollover basis. • Can rollover the policy at ACB if child is contingent/successor owner and held by their guardian of property (see below).
Individual	Guardian of property for minor child or incapable child of original owner	Child, grandchild, great-grandchild, stepchild, or spouse of child (son-in-law or daughter-in-law) of original owner	Contingent owner/successor owner designation for minor or incapable child	Nil (rollover at ACB)	• Guardian of property for qualifying minor or incapable child holds the policy as agent. • Can't transfer the policy through the will or estate on rollover basis to child. Can't transfer the policy to trust for child. • Once minor reaches age of majority, policy transfers to them without tax implications.
Individual	Personal trust	Anyone	Gift or direct transfer for no consideration	Greater of CSV/ACB minus ACB	• Ensure a lawyer drafts a formal trust deed. This includes naming the trustee(s), beneficiaries, and trust language allowing the trust to own a policy. • Trust may require funds or ongoing contributions to pay premiums. • Policy transfers to an alter-ego, spousal or joint-partner trust is not recommended without additional tax advice. • Deemed disposition of trust capital assets (e.g., 21-year rule) doesn't apply to life insurance policies owned by a trust.
Personal trust	Capital beneficiary	Anyone	Distribution from trust in satisfaction of capital beneficiary interest	Nil (rollover at ACB) if ITA conditions met	• Only applies to "personal trusts" under the ITA which includes a graduated rate estate. • Transfer must be to capital beneficiary in satisfaction of all or part of their capital interest.
Personal Trust	Non-capital beneficiary	Anyone	Distribution from trust	Greater of CSV/ACB minus ACB	• Taxable disposition for the trust. • Beneficiary requires independent tax advice to determine tax implications for receiving the policy.

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 in this article are included solely 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 January2024. Sun Life Assurance Company of Canada is the insurer, and is a member of the Sun Life group of companies. © Sun Life Assurance Company of Canada, 2024.