



Mr. Kevin Wark, LLB, CLU, TEP
Conference for Advanced Life Underwriting
220 Duncan Mill Road, Suite 504
North York, ON M3B 3J5

2014-052936
Lena Holloway, CPA, CA

November 16, 2015

Dear Mr. Wark:

Re: Request for Technical Interpretation

We are writing in response to your correspondence of April 22, 2014 wherein you requested our comments on the application, under specific circumstances, of subsections 70(6), 73(1.01) and 73(1.02) of the Income Tax Act, R.S.C. 1985, c. 1 (5th Supp.), as amended (the "Act").

Firstly, we would like to assure you that the arguments presented in your submission received careful consideration, however our position remains as previously stated. In particular while we agree with your comments that the relevant legislation does not contain a requirement that the spouse "benefit" from the trust while alive, the concern remains that no one other than the spouse obtains the use of trust capital or income. The distinction must be made from the examples provided in your submission to situations where a trustee in his/her fiduciary capacity takes action to preserve or increase the capital of a trust or invests in an asset providing income to a trust. In this regard, we are still of the view that a trustee's duty to maintain certain income producing or capital appreciating properties which may potentially benefit a spouse during their lifetime, is not, in our view, analogous to the payment of insurance premiums by the trustee to maintain rights to receive the insurance proceeds by the policy beneficiary after the death of the spouse. In your opinion, since the residual beneficiaries will not receive any property during the lifetime of the spouse, the payment of life insurance premiums cannot be considered to be property used by the residual beneficiary. We disagree with this view, but rather, we consider the payment of premiums by the trust to be property used to

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establish the residual beneficiaries' rights to funds from the policy that will be realized after the death of the spouse.

Finally we note that your submission was also forwarded to the Department of Finance.

Yours truly,

A handwritten signature in blue ink that reads "Phil Kohnen". The signature is written in a cursive style with a large initial "P".

Phil Kohnen
Manager, Trust Section I
Financial Industries and Trusts Division
Income Tax Rulings Directorate
Legislative Policy and Regulatory Affairs Branch