



Canadian Association  
of Gift Planners

May 14, 2020

Ms Lisa Koltun  
Manager, Investigations – Financial Institutions  
BC Financial Services Authority  
2800-555 West Hastings Street  
Vancouver, BC  
V6B 4N6  
Sent by email to: Lisa.Koltun@bcfsa.ca

**Re: Bulletin INS-20-003 – Charitable donation of Life Insurance Policies in British Columbia**

Dear Ms Koltun:

On behalf of the Canadian Association of Gift Planners (CAGP) we are writing in regard to the above Bulletin issued this month.

CAGP is a national, non-profit organization established in 1993 whose mission is to champion the growth and development of strategic charitable gift planning in Canada. We achieve our mission by promoting philanthropy and providing advanced education on strategic gift planning including gifts of life insurance. We are the only Canadian professional association that convenes fundraisers and professional advisors, and our 1,200 members in 20 local Chapters in BC and across Canada are experts with specialized skills to support donors to achieve personal philanthropic goals.

We wish to thank the Authority for issuing this Bulletin in regard to section 152 of the Insurance Act and the donation of life insurance policies in British Columbia. This issue has been of great concern to our members in British Columbia and across Canada over the past year. CAGP also welcomes the Authority's encouragement of the charitable sector to both communicate current best practices for gifts of life insurance and to develop a document on this important area of philanthropy. Before such a document may be developed, we are seeking clarification on some specific points mentioned in the Bulletin. The questions below have been posed by members of our Government Relations Committee and general membership. We would welcome your assistance in this matter that will impact individual donors, charities, and professional advisors in British Columbia and across the country.

We look forward to working with the BC Financial Services Authority in the future as CAGP has a long history of strong working relationships with Canada Revenue Agency (CRA) and the Federal Department of Finance in regard to strategic charitable gift planning in Canada.

Please see our specific questions below in relation to the Bulletin:

1. How is "bona fide charitable organization" defined and who determines it? This is not a term typically used with respect to charities in Canada. Does this term refer to CRA registration of a charity? Are there other legal requirements or regulations to be deemed a "bona fide charitable organization"?

2. We also note that the Bulletin references the term ‘charitable organization’ . For your information, the Income Tax Act (Canada) defines the term “charitable organization” and distinguishes the term from defined terms “public foundation” and “private foundation” for various tax compliance reasons. All of these types of charity are “registered charities”. We have assumed you are using the term “charitable organization” as a reference to any charity and not in the Income Tax Act context. If that is not correct, please advise.
3. Further clarification is requested in regard to the statement that a donation be made directly by the “insured”. It is noted that “insured” under the Insurance Act means a person who contracts with the insurer. It is also used in practice to describe the life insured under the policy. What if the insured and the owner of the policy are different which is a relatively common circumstance with gifts of life policies to charities, for example, where the owner of the policy is a business corporation, but the life insured is the individual who owns the majority interest in the business corporation? In this scenario, the owner (the business corporation) is technically the donor of the policy.
4. The Bulletin in paragraph 2 (iii) mentions receiving a receipt for the “cash value” of the policy. While the issuing of donation tax receipts is a CRA issue, does this Bulletin suggest that the receipt must be for the cash surrender value as opposed to fair market value (FMV)? The CRA’s published guidance states that a charity should issue a receipt for the eligible amount of the gift – which is defined to be the FMV of the property donated (the policy) less any advantage or benefit received by the donor or someone related to the donor. And while the CRA has in the past recognized that the cash surrender value may be an indicator of FMV, it is a requirement that the FMV be used which could be different from the cash surrender value.
5. The term “vulnerable persons” is used in the Bulletin and specifically mentioned in reference to s.152 of the *Insurance Act*. Is there any specific due diligence implied either directly or indirectly by the use of this term in the Bulletin?

CAGP greatly appreciates your review and response to these questions. Your direction will be helpful as we draft a best practices document as suggested in the Bulletin.

Thank you for your assistance.

Sincerely,



Michelle Osborne  
Chair of the Board of Directors



Ruth MacKenzie  
President & CEO

cc: Grant Monck, LL.B., Chair, CAGP Government Relations Committee