

# Corporate Life Insurance Premium Payments: Avoiding Taxable Benefits After “*Gestion Roy*”

## WESTWARD'S VIEWPOINT

In *Gestion Roy*, the courts found that a corporate policy owner received a taxable benefit when the corporate revocable beneficiary paid the premiums without reimbursement from the policy owner.

A life insurance policy involves three roles:

1. the owner;
2. the beneficiary; and
3. the premium payor.

Corporate ownership of life insurance is commonplace for insuring the shareholders of privately held corporate groups.

When the corporate owner is also the beneficiary and the premium payor there is no risk of unexpected taxable benefits arising from the payment of premiums.

Separating the corporate owner from the corporate beneficiary is common for business reasons beyond the scope of this article.

As illustrated by *Gestion Roy*, if a corporate-owned policy involves another party as beneficiary and/or another party as premium payor, great care must be taken to avoid taxable shareholder benefits.

For example, instead of a corporate beneficiary paying the premiums for a policy owned by the parent company, it would be preferable for the corporate beneficiary to pay tax-free intercorporate dividends to the parent company to fund the payment of premiums by the parent company as policy owner.

Any corporate life insurance structures involving separation of owner, beneficiary and/or premium payor should obtain professional tax advice regarding the risk of taxable benefits.



Clients can contact their Account Manager for more information.

*The opinions expressed in this memorandum are strictly those of Westward Advisors Ltd. This memorandum is for information purposes only and is not legal or tax advice.*

## GESTION ROY <sup>(1)</sup>

*Gestion Roy* is a 2022 Tax Court of Canada decision confirmed by the Federal Court of Appeal in 2024 involving taxable shareholder benefits for premiums paid on corporate-owned life insurance policies.

## ISSUE

At issue is the reassessment of taxable benefits to two corporate policyholders for premiums paid by a third corporation and beneficiary of the policies.

GR and 445 are holding companies that owned six life insurance policies insuring the life of their majority shareholder, Mr. R, during the 2014, 2015, 2016 and 2017 taxation years.

The annual premiums were paid by R3D which was the revocable beneficiary of the policies. R3D was an operating company the majority of which was owned by Mr. R through GR.

The purpose of the policies was to provide R3D with liquidity for the redemption of shares from Mr. R's estate in the event of his death.

R3D did not deduct the premiums in its tax returns and did not receive any reimbursements from GR or 445.

In 2017, the amount of \$360,000 accumulated in the investment accounts was withdrawn from the policies and collected by R3D, who reported a taxable amount of \$98,840. In 2019 the policies were cancelled after R3D was sold.

## HELD

GR and 445 received an advantage in that they owned the policies and all the rights attached to the policies without having to pay the premiums, and there was a corresponding impoverishment for R3D for the amount of premiums paid.

GR was assessed a taxable benefit under subsection 15(1) for the amount of premiums paid by R3D. 445 was assessed a taxable benefit under subsection 246(1) for the amount of premiums paid by R3D.

(1) See 2024 FCA 16 and 2022 TCC 144.

