

Separation Agreements - Use of Life Insurance

When a Separation Agreement is being prepared, there are often financial obligations included such as payments of child support and spousal maintenance.

If one spouse is paying child support only, the receiving spouse will want to ensure that in the event of the paying spouse's death and while the obligation is ongoing, that there is security for such payments. The receiving spouse would then want to request that the recipient be the beneficiary of the insurance payment in trust for the children.

Life insurance owned by the payer or by the payee on the life of the payer creates non-taxable funds at death to the recipient.

If the policy is to be security for spousal support, the payer spouse could either have a trustee other than the other spouse to continue the support payments or agree that the recipient spouse be the beneficiary of such proceeds.

If there are children, the recipient of the child support could be named as the beneficiary in trust for the children of the insurance proceeds.

A child under nineteen in BC cannot give a receipt or discharge for funds, so it is important to have either the surviving parent or a neutral third party trustee to receive and pay out the child support payments that the payer is obliged to make.

Where there is a joint parenting arrangement, it may be well worthwhile for each parent to be the beneficiary of insurance on the other's life so that upon the death of a parent, the surviving parent has adequate cash resources to look after the children. For example, a parent could die in a car accident and surviving children could suffer serious injuries. The insurance funds can provide necessary funding for that child or the children's ongoing care.

If a spouse is paying spousal support, the cost could be a portion of the spousal support representing the cost of such insurance that the recipient parent would be putting in place.