

TABLE OF CONTENTS

<i>PREFACE</i>	iii
Chapter 1: — THE HISTORY OF LIFE INSURANCE POLICY TAXATION AND CHANGES THAT TOOK EFFECT IN 2017	
1.1 Introduction	1
1.2 Pre-1968 History	2
1.3 The Carter Commission Report	2
1.4 The 1968 Federal Budget	2
A. Taxation of policy gains on disposition	3
B. Relief for existing policies	4
1.5 A New Act	4
1.6 The 1977 Federal Budget	4
A. Policy loans as a disposition	5
B. New tax anniversary date	5
1.7 The 1981 Federal Budget	5
1.8 The December 1, 1982 Notice Of Ways And Means Motion and December 7, 1982 Bill C-139	7
A. Rules for post-December 1, 1982 policies issued before 2017	
— “G2 policies/rules”	7
i. Accrual taxation	7
ii. “Exempt policies”	8
iii. Reduction of ACB by NCPI and the treatment of premiums for certain riders	10
iv. Prorating ACB for partial dispositions (withdrawals)	11
v. Annuitization as a disposition	11
B. Rules for pre-December 2, 1982 policies (“grandfathered policies”)	
— “G1 policies/rules”	12
i. The tax rules	12
ii. The effect of changes made to G1 policies	12
iii. Life insurance capital dividend account	15
1.9 Changes to the Exempt Test and Life Insurance Policy Taxation	16
A. Background	16

Table of Contents

B. The 2012 federal budget	18
C. August 23, 2013 draft legislation	20
D. August 29, 2014 draft legislation	21
E. 2014 final legislation — Bill C-43 — The current rules —	
“G3 policies/rules”	22
i. Pre-test	23
ii. Changes to actuarial assumptions and reserve methods	24
iii. Changes to NCPI calculation	25
iv. Changes to the capital portion of annuity payments	
from prescribed annuity contracts (“PACs”)	26
v. Changes to the 8 percent test	26
vi. Changes to the 250 percent test	26
vii. Changes to address joint policies	27
viii. Changes to the calculation of the ACB of a policy	28
ix. Changes to dispositions	29
x. Grandfathering (“G2 status”)	29
1.10 Conclusion	31
 Chapter 2: — LIFE INSURANCE PRODUCTS	
2.1 Introduction	33
2.2 An Overview of Pricing	33
A. The elements of premium calculations	33
i. Mortality	33
ii. Expenses	35
iii. Lapse	36
iv. Investment income	36
v. Taxes	37
B. Impact of assumptions	39
2.3 Differences Between Life Insurance Products	40
A. Term vs. permanent	40
i. Term insurance	41
ii. Permanent insurance	41
a. Participating vs. non-participating policies	41
b. Pricing permanent policies — the level premium system	43
c. Level premium calculation	46
d. The reserve calculation	47
2.4 Term Insurance	48

Table of Contents

A. General attributes	48
B. Conversion features	48
i. Attained age conversion	49
ii. Original age conversion	49
C. Joint coverages	49
i. Joint last-to-die	49
ii. Joint first-to-die	50
D. Forms of term insurance	50
i. Annual renewable term	50
ii. 10- and 20-year renewable term insurance	50
iii. Level term insurance	50
2.5. Term-to-100	50
2.6 Limited-Pay Whole Life	51
2.7 Traditional Whole Life	52
A. Credit options	53
i. Cash	53
ii. Reduce premiums	53
iii. Accumulate at interest	53
iv. Purchase paid-up additions	54
v. Term insurance enhancements	54
a. One-year term to insure cash value	54
b. Enhancement options	55
vi. Premium offset	55
B. Coverage options	56
2.8 Universal Life	56
A. General attributes	56
B. Investment options available	57
C. Bonuses	59
D. Expenses	59
i. Cost of insurance	60
a. Yearly renewable COI	60
b. Level COI	60
c. Limited-duration yearly renewable COI	60
d. Limited-duration level COI	61
ii. Surrender charges	61
iii. Deposit loads	62
iv. Administration fees	62

Table of Contents

v. Policy transaction fees	63
vi. Market value adjustments	63
E. Death benefit types	63
2.9 Coverage Options	64
A. Single life and joint	64
B. Multi-life	64
i. Multi-life in private corporation situations	64
ii. Splitting a multi-life policy	65
2.10 Non-Forfeiture Options	66
A. Cash value	66
B. Reduced paid-up values	66
C. Extended term values	67
D. Automatic premium loan	67
2.11 Advanced Death Benefits from Life Insurance Policies	68
2.12 Variable Life Insurance Policies — General Attributes	70
2.13 Special Considerations for Certain Participating Policyholders	71
A. What is demutualization?	71
B. Policyholder tax regime for demutualization benefits	71
2.14 Impact of Legislation and Accounting Standards Governing Insurance Companies	72
A. Disclosure in respect of participating and adjustable life insurance policies	72
B. Accounting standards for recognition and measurement of financial assets of insurers	73
i. Prior to January 1, 2023	73
ii. January 1, 2023 or after	74
C. Change to the taxation of portfolio dividends received by insurers will materially impact policyholders	75
2.15 Life Insurance — Financial Underwriting Considerations	75
A. Basic principles	76
B. The evolution of financial underwriting	77
C. Financial underwriting guidelines	78
D. Personal and corporate guidelines	78
i. Income replacement	78
ii. Business insurance considerations	79
E. Cover memos	80
F. Overall	81

Table of Contents

2.16 Conclusion	81
Chapter 3: — TAXATION OF LIFE INSURANCE POLICIES, DISPOSITIONS, AND SELECTED VALUATION ISSUES	
3.1 Introduction	83
3.2 Taxation of Exempt Life Insurance Policies	83
A. General rules and terminology for dispositions	84
B. What is a disposition of an interest in a life insurance policy?	85
C. What is not a disposition of an interest in a life insurance policy?	88
i. Fund value paid on first death	89
ii. Annuitization where the life insured is totally and permanently disabled	90
iii. Disability benefits	91
D. Proceeds of the disposition	91
E. Cash surrender value	92
F. Adjusted cost basis (ACB)	92
G. Disposing of an interest in a life insurance policy	99
i. Full surrender of the policy	99
ii. Partial surrender of the policy	100
iii. Policy loans, policy loan repayments, and policy loan interest	102
iv. Policy dividends on participating insurance policies	106
v. Transfer of ownership (absolute assignment)	107
a. The general rule	107
b. Gifts, corporate distributions, non-arm's length transfers, etc.	107
c. Tax-free rollovers	109
I. Generation transfers and intergeneration transfers	109
II. <i>Inter vivos</i> transfer to spouse or common-law partner	112
III. Transfer to spouse or common-law partner at death	113
IV. Transfer out of a personal trust	115
3.3 Selected Valuation Issues	115
A. Valuation of an interest in a life insurance policy	115
B. Valuation and the type of insurance product	117

Table of Contents

C. Valuation of shares for the deemed disposition upon death	
under subsection 70(5)	117
i. Corporate-owned life insurance on deceased shareholder, related parties and other shareholders or employees	117
ii. Life insurance shares	120
D. Valuation of shares held by certain trusts	129
E. Valuation of other properties deemed disposed of	129
F. The lifetime capital gains exemption	130
G. Valuation and the corporate attribution rules	133
H. Disposition of shares under the promissory note method	134
I. Transfer of insurance policies involving corporations and a shareholder or employee	134
i. Example 1: Corporate-owned insurance transferred to shareholder (or employee)	136
ii. Example 2: Transfer between related corporations (sister companies)	139
iii. Example 3: Transfer between related corporations (intercompany shareholdings)	142
iv. Example 4: Transfer insurance policy from a shareholder to a corporation	147
v. Miscellaneous transfers	150
a. Amalgamations	150
b. Wind-ups	151
J. Transfer of partnership owned life insurance	152
3.4 Conclusion	152
 Chapter 4: — LEVERAGED LIFE INSURANCE — BORROWING AGAINST A POLICY	
4.1 Introduction	153
4.2 Overview of Conventional Leveraged Life Insurance Programs	154
A. General areas of concern relating to interest deductibility and leveraged life insurance	154
i. Simple interest	155
ii. Compound interest	155
iii. Proposed legislation — withdrawn	157
iv. Special rules in Québec	158
v. Application of the general anti-avoidance rule relating	

Table of Contents

to interest deductibility	158
vi. Interest deductibility limitation and the 2021 Federal Budget	162
vii. Alternative Minimum Tax (“AMT”) and interest deductibility	163
B. General areas of concern relating to GAAR and leveraged life insurance involving issues other than interest deductibility	164
C. Aggressive tax planning	167
D. Tax shelter rules	170
4.3 Application and Associated Risks of Leveraged Life Insurance Programs	171
A. Example 1: Individual retirement application	171
B. Example 2: Corporate application using leveraged life insurance for retirement redemption	174
C. Example 3: Corporate application using leveraged life insurance to pay a bonus	177
D. Example 4: Corporate application using leveraged life insurance for a living buyout	180
E. Example 5: Immediate borrowing application — collateral loan to invest	188
F. Examples 6 and 7: Immediate borrowing application 10/8 plans — for historical reference	190
i. Example 6: 10/8 collateral loan tied to policy — prior to 2013 federal budget	193
ii. Example 7: 10/8 policy loan — prior to 2013 federal budget	195
4.4 Conclusion	198
 Chapter 5: — PERSONAL LIFE INSURANCE NEEDS AND APPLICATIONS	
5.1 Introduction	199
5.2 Funding Needs at Death	199
A. Protecting dependants	199
B. Estate preservation	200
i. Funding the tax liability in relation to deemed disposition of capital property at death	200
ii. Funding tax liabilities in relation to registered plans on death	201

Table of Contents

iii. Funding estate taxes	202
iv. Provincial probate fees and other estate costs	202
v. Collateral insurance	203
C. Create, increase or replenish an estate	203
D. Estate equalization	204
5.3 Other Benefits of Life Insurance	204
A. Creditor protection during life	205
i. Dependant relief claims	208
ii. Separation agreements and purpose of insurance	209
B. Using the tax-exempt accumulation of a life insurance policy — withdrawals, policy loans and leveraging	209
C. Intergenerational transfers of life insurance	210
D. Other personal insurance strategies	212
5.4 Conclusion	213
 Chapter 6: — BUSINESS INSURANCE NEEDS — TECHNICAL ISSUES	
6.1 Introduction	215
6.2 Private Company Taxation, Theory of Integration, Life Insurance and the Capital Dividend Account	215
A. Measures relating to tax planning using private corporations	215
i. Income sprinkling using private corporations	216
ii. Holding a passive investment portfolio inside a private corporation	219
iii. Converting a private corporations’s regular income into capital gains	221
iv. Intergenerational transfers of a family business	224
B. Introduction to the theory of integration	228
C. The capital dividend account (CDA)	228
D. Life insurance proceeds received by a private corporation	231
i. Life insurance proceeds received by a trust	234
ii. Life insurance proceeds received by lenders	234
a. Current position	235
b. Historical perspective	235
iii. Capital dividend account where insured or insurer is non-Canadian	238
E. Effect of various corporate ownership structures	239

Table of Contents

F. Payment of a capital dividend	243
G. How an election is made	244
H. CDA — miscellaneous issues	245
6.3 Shareholder and Employee Benefits	247
A. Introduction	247
B. Group life insurance premiums	247
C. Premiums paid by a corporation on personally-owned insurance	248
D. Beneficiary designation under corporate-owned life insurance	248
E. Transfer of ownership of corporate-owned life insurance	250
6.4 Deductibility of Life Insurance Premiums	251
A. Introduction	251
B. Registered life insurance policy	252
C. Employee benefits	253
D. Charitable gift of a life insurance policy	253
E. Collateral insurance	253
i. Historical perspective	254
ii. Paragraph 20(1)(e.2)	255
a. Requirements for deductibility	255
b. Amount deductible	256
iii. Archived Interpretation Bulletin IT-309R2: Premiums on life insurance used as collateral	259
iv. Related matters	260
6.5 Accounting for Life Insurance	261
A. Authoritative support	261
B. Financial reporting	262
6.6 Conclusion	262
Chapter 7: — BUSINESS INSURANCE NEEDS — APPLICATIONS	
7.1 Introduction	263
7.2 Business Loan Protection	263
A. Introduction	263
B. Implementation	264
C. The tax rules	264
D. The benefits associated with this strategy	265
7.3 Keyperson Insurance Protection	265
A. Introduction	265
B. Implementation	266

Table of Contents

C. The tax rules	267
D. The benefits associated with this strategy	267
7.4 Funding Buy/Sell Arrangements	268
A. Introduction	268
B. Overview of structures for life insured buy/sell arrangements at death	269
C. Corporate vs. personally-owned life insurance	269
i. Tax leverage	269
ii. Policing of policy premiums	270
iii. Allocation of cost of premiums	270
iv. Ease of administration	270
v. Family law (Ontario)	270
vi. Tax complexity	271
vii. Creditor protection	271
viii. Potential transfer of ownership	272
a. Corporate-owned life insurance and sale of business to a third party	272
b. Personally-held life insurance on other shareholders for criss-cross buy-sell	273
D. Structuring the buy/sell provisions with life insurance	274
i. Cross-cross purchase method (or criss-cross buy/sell)	275
a. Without use of trustee	275
1. Criss-cross purchase method (or criss-cross buy/sell) with Holding Companies	279
b. Use of a trustee	280
1. Use of trustee with Holding Companies	281
ii. Promissory note method	281
a. Promissory note method with Holding Companies	284
iii. Share redemption method	285
a. Share redemption method with Holding Companies	290
iv. Hybrid (combination) method	291
a. Hybrid (combination method) with Holding Companies	296
v. Hybrid method — optimization clauses	297
E. Stop-loss rules	297
i. Application	298
ii. Grandfathering rules	299

Table of Contents

a. Pre-existing agreement rule	299
b. Pre-existing insurance	300
iii. Planning under the stop-loss rules	301
a. Use of spousal rollover (roll and redeem)	301
b. 50 percent solution	302
iv. Summary	304
F. Other considerations	304
i. Use of the capital dividend account	304
ii. Eligible dividend tax regime	305
iii. Use of a bare trustee	306
7.5 Life Insurance Used in Family Business Succession Planning	306
A. Introduction	306
B. The role of life insurance in common family business succession plans	307
i. Sale to a successor during life for a promissory note	307
ii. Use of an estate freeze to transfer ownership to a successor during life	308
iii. Transfer at death to a successor	308
C. The role of life insurance in arm's length business succession plans	310
i. Sale proceeds received in personal hands	310
ii. Sale proceeds received in a family trust	310
iii. Sale proceeds received in a corporation	310
iv. Employee ownership trusts (EOTs)	311
D. Intergenerational transfer of small businesses and farms	312
i. The enactment of private member's Bill C-208 and subsequent draft legislation	312
ii. Life insurance and qualifying intergenerational transfers	313
a. Avoid the need to transfer policy on sale	313
b. Additional insurance to fund business acquisition cost	314
iii. Qualifying transfers in conjunction with estate freezes	314
7.6 Life Insurance as a Corporate Investment	315
A. Introduction	315
B. Impact of a corporation owning a cash value life insurance policy	316
C. Issues to consider in comparing corporate-owned life insurance to taxable investments	316

Table of Contents

i. Financial considerations	316
ii. Post-mortem tax considerations in comparing alternatives	317
7.7 Retirement Compensation Arrangements	321
A. Introduction	321
B. Retirement compensation arrangement (RCA)	322
i. RCA defined	323
ii. Salary deferral arrangements	324
C. Taxation of RCAs	325
D. SERP investment options	329
E. Life insurance funded SERP strategies	331
i. Life insured SERP strategy	331
ii. Leveraged life insured SERP strategy	332
iii. Split-dollar life insured SERP strategy	334
iv. Front end leveraged RCA (FELRCA) — for historical reference	336
F. The RCA deeming rules	338
G. Winding up an RCA	341
H. Accounting for retirement compensation arrangements	342
Chapter 8: — SPLIT-DOLLAR INSURANCE ARRANGEMENTS	
8.1 Introduction	345
8.2 What is a Split-dollar Insurance Arrangement?	345
A. Employee/shareholder owned death benefit	346
B. Corporate-owned death benefit	348
8.3 Why Split-dollar? — Situations Using Split-dollar Insurance Arrangements	351
A. Executive benefits	351
B. Keyperson insurance	351
C. Buy/sell agreements	352
D. Holding company	352
E. Retirement compensation arrangements	352
F. Family situations	353
G. Charitable giving	353
8.4 How are Split-dollar Arrangements Implemented?	353
A. Co-ownership and a Split-dollar agreement	353
B. Other legal steps	354
C. Type of product and numerical assumptions	355

Table of Contents

i. Universal life (UL) vs. participating (Par) whole life	355
ii. Life pay vs. shorter payment of premiums when using UL vs. Par	356
iii. Guarantees or lack thereof in the context of UL vs. Par	357
D. Funding premiums and allocating costs	359
i. Premium split based on term insurance	359
ii. Premium split based on cash value	360
E. Actuarial opinions	360
8.5 Tax treatment of Split-dollar Arrangements Involving Employee/ Shareholder and a Corporation	361
A. Historical perspective re: assessing an employee or shareholder benefit in split-dollar arrangements	361
B. Quantifying a benefit	364
C. Characterization of the taxable benefit	365
i. Employee vs. shareholder	365
ii. Deductibility of benefit	367
8.6 Tax Treatment of Split-dollar Arrangements in Other Contexts	367
A. Charitable advantage rules and other tax considerations in the charitable context	367
B. RCA advantage rules	369
8.7 Tax Issues Relating to Corporate Ownership and Split-dollar Arrangements	369
A. Adjusted cost basis	369
B. Allocation of value on certain deemed dispositions	371
8.8 Alternative to the Split-dollar Insurance Arrangement	372
8.9 Conclusion	373
Chapter 9: — TRUSTS AND LIFE INSURANCE	
9.1 Introduction	375
9.2 What is a Trust? Why Create a Trust?	375
9.3 Taxation of Trusts	379
A. General tax considerations	379
i. Conduit taxed as an individual	379
ii. Taxation of estates, testamentary and life interest trusts — the 2016 amendments	380
iii. Residence of a trust	383
iv. Trust reporting	384

Table of Contents

B. Specific tax considerations relating to income splitting	385
i. Attribution rules	385
ii. Tax on split income (TOSI) rules	386
9.4 Trusts and Life Insurance	387
A. Avoidance of 21-year rule	389
B. Change of trustee and life insurance	391
C. Attribution planning	392
D. Testamentary insurance trusts	392
E. Business insurance trusts	397
F. Trusts and United States estate tax	398
G. Retirement compensation arrangements	399
H. Spousal trusts and life insurance	399
I. Alter ego and joint partner trusts	405
9.5 RRSP Trusts and Life Insurance	406
9.6 Employee Ownership Trusts	407
9.7 Conclusion	408
Chapter 10: — INTERNATIONAL ISSUES	
10.1 Introduction	409
10.2 United States Tax Considerations	409
A. Residence and domicile	409
B. Estate, gift and generation skipping taxes	410
i. Overview of the U.S. transfer tax system	410
a. Estate taxes	410
b. Gift taxes	412
c. Generation skipping tax	413
d. Carry-over vs. step-up basis adjustments	413
ii. Current U.S. estate, gift and generation skipping tax laws	414
a. Overall reduction in transfer taxes	414
b. State death taxes	415
c. Portability	416
iii. Estate tax and life insurance proceeds	416
a. Personal ownership	416
b. Corporate ownership	417
c. Three-year lookback	417
d. Irrevocable life insurance trusts (ILITs)	418
C. U.S. transfer taxes for non-United States persons	419

Table of Contents

i. The Protocol	420
a. Prorated unified credit (paragraph 2 of Article XXIX B)	420
b. Marital credit (paragraphs 3 and 4 of Article XXIX B)	420
c. Tax credit relief (paragraphs 6 and 7 of Article XXIX B)	421
d. Small estate relief (paragraph 8 of Article XXIX B)	422
ii. Planning for life insurance	422
D. U.S. income tax considerations	422
i. General rules	422
ii. Taxation of U.S. life insurance	423
iii. Taxation of foreign insurance for U.S. persons	424
iv. Reporting requirements for foreign insurance	425
v. Excise tax	426
10.3 Emigration and Immigration	427
A. Deemed disposition	427
i. Taxable Canadian property	427
ii. Individuals	428
iii. Immigration	428
iv. Corporate-owned policies	429
v. Trust owned policies	430
B. Reporting requirements on emigration	430
10.4 Non-resident Owners of a “Life Insurance Policy in Canada”	430
A. Dual-resident individuals	431
B. Taxable dispositions by a non-resident	431
C. Withholding tax and section 116 clearance requirements	432
i. Canadian “purchaser”	432
ii. <i>Inter vivos</i> gift or non-arm’s length transfer	434
iii. Non-resident “purchaser”	435
iv. Non-resident spouses	435
D. Impact of tax treaties	435
E. Foreign corporations and a “life insurance policy in Canada”	436
10.5 Foreign Life Insurance	437
A. Foreign property reporting rules	437
B. Canadian taxation of foreign life insurance	438
C. Provincial premium taxes	439

Table of Contents

Chapter 11: — LIFE INSURANCE AND PARTNERSHIPS

11.1 Introduction	441
11.2 Partnership Entities	441
11.3 Unlimited Liability	442
11.4 Partnership Agreement	442
11.5 General Taxation of Partnerships and Partners	443
A. Income	443
B. Year end	443
C. Partnership interest	444
D. Income tax consequences of the retirement of a partner	444
E. Death of an individual partner	445
F. Death of the sole shareholder of a corporate partner	446
11.6 Partnerships and the Proceeds of Life Insurance Policies	446
A. Individual partners	447
B. Corporate partners	447
11.7 Transferring a Life Insurance Policy to or from a Partnership	450
A. Partnership transferring a life insurance policy to a partner	450
B. Transfer of a life insurance policy to a partnership	452
11.8 Partnership Insurance Needs	453
A. Personal insurance	453
B. Key partner coverage	454
C. Collateral life insurance	454
D. Funding the partnership agreement	456
i. Funding obligations on death with partner-owned life insurance	456
a. Basic criss-cross method — individual partners	456
b. Basic criss-cross method with corporate partners	457
c. Trustee'd criss-cross method	459
d. Criss-cross beneficiary designation method	460
ii. Funding obligations on death with partnership-owned life insurance	461
a. Partnership purchases the deceased partner's interest — individual partners	462
b. Partnership purchases the deceased partner's interest — corporate partners	464
c. Partners purchase the deceased partner's interest	465
d. Splitting the premium	466

Table of Contents

iii. Choosing a structure for funding partnership buyout obligations at death	466
iv. Funding the withdrawal of a partner on retirement	467
a. Magnitude of the obligation	467
b. Funding the obligation	468
c. Interest deductibility	470
v. Creditor protection	471
11.9 Conclusion	472
Chapter 12: — INSURANCE AND CHARITABLE GIVING	
12.1 Introduction	473
12.2 What is a Charity?	473
12.3 Meaning of Charitable Giving	474
12.4 Disbursement Quota and Life Insurance Policy Gifts	477
12.5 Tax Incentives and Limitations	478
A. Annual limits	480
B. Gifts of capital property	481
C. Gifts of publicly-listed securities	481
D. Anti-avoidance rules	483
E. Tax shelter donation arrangements	485
12.6 Traditional Gifts of Life Insurance	485
A. Life insurance as a gift	485
B. Types of life insurance policies	486
C. Methods of gifting life insurance	487
i. Bequest of policy proceeds	487
ii. Charity-owned policy	488
a. Assignment of policy	489
b. Value of policy	490
c. Tax consequences of transfer	492
d. Example	492
e. Charities and anti-trafficking provisions	492
f. Benefits of life insurance gifts to a charity	493
iii. Donor-owned policy	494
iv. Summary	495
12.7 Other Insurance Supported Gifts	496
A. Gift of private company shares	496
B. Capital replacement	497

Table of Contents

12.8 Gifts of Segregated Funds	498
A. Segregated fund contract as a gift	498
B. Donating segregated fund contracts in kind	499
12.9 Conclusion	501
Chapter 13: — HISTORY OF ANNUITIES AND SEGREGATED FUNDS AND CURRENT LEGISLATIVE CHANGES	
13.1 Introduction	503
A. Annuities	503
B. Segregated funds	504
13.2 Early Taxation of Annuities from 1917 to 1971	504
13.3 The Carter Commission, Tax Reform and Annuities	506
13.4 The Introduction of the Accrual Taxation of Annuities	507
13.5 Legislative Changes Relating to Prescribed Annuity Contracts	509
13.6 Permitting Additional Types of Annuities under Registered Plans	510
13.7 The Introduction of Segregated Funds	512
13.8 The Taxation of Segregated Funds 1970 to 1977	513
13.9 The Taxation of Segregated Funds 1978 to Present	514
Chapter 14: — TAXATION OF ANNUITY CONTRACTS	
14.1 Introduction	517
14.2 Taxation of Post-1989 Contracts	518
A. Taxation of annuity income	518
i. Overview	518
ii. Accrual taxation of annuities	518
iii. Taxation of annuity payments	519
iv. Definition of prescribed annuity contract	521
B. Taxation of dispositions	526
i. Overview	526
ii. What constitutes a disposition?	526
iii. Definition of proceeds of the disposition	527
iv. Definition of adjusted cost basis	528
C. Taxation on death	530
i. Contract terminates at death	531
ii. Contract terminates at death, lump sum paid to beneficiary	531
iii. Contract is transferred to beneficiary	532
14.3 Taxation of Pre-1990 Annuity Contracts	533
A. Overview	533

Table of Contents

B. Taxation of contracts acquired before December 2, 1982	533
i. Accrual taxation	533
ii. Pre-1982 unallocated income	534
iii. Definition of adjusted cost basis (ACB)	535
iv. Taxation of annuity payments	535
v. Taxation of dispositions	536
vi. Taxation on death	536
C. Taxation of annuity contracts acquired after December 1, 1982 and before January 1, 1990	536
i. Accrual taxation	536
ii. Definition of adjusted cost basis (ACB)	537
iii. Taxation of annuity payments	537
iv. Taxation of dispositions	538
v. Taxation on death	538
14.4 Conclusion	538
 Chapter 15: — DEFERRED ANNUITIES	
15.1 Introduction	539
15.2 Definitions	540
A. Annual reporting	540
B. Last acquired	540
C. Disposition	540
D. Exceptions	541
E. Accumulating fund	541
15.3 Contracts Last Acquired Prior to April 1, 1977	541
A. Accrual taxation	542
B. Surrender	542
C. Annuitization	542
D. Death of the annuitant	543
15.4 Contracts Last Acquired After March 31, 1977 and Before January 1, 1990	543
A. Accrual taxation	543
B. Surrender	543
C. Annuitization	543
D. Death of the annuitant	544
15.5 Contracts Last Acquired After December 31, 1989	544
A. Accrual taxation	544

Table of Contents

B. Surrender	544
C. Annuitization	544
D. Death of the annuitant	544
15.6 Registered Deferred Annuities	544
Chapter 16: — PLANNED GIVING WITH ANNUITIES	
16.1 Introduction	547
16.2 Charitable Annuities Issued Before December 21, 2002	547
A. General description	547
B. Example of how pre-December 21, 2002 charitable annuities work	548
C. Variations of the basic structure pre-December 21, 2002 — fixed term annuities	549
D. Financial realities — pre-December 21, 2002	549
E. Benefits of the pre-December 21, 2002 charitable annuity structure	550
F. Charitable annuities and charitable foundations	550
16.3 Charitable Annuities Issued After December 20, 2002	550
A. Split-receipting — general rules	550
B. Income Tax Technical News Number 26	551
C. Further clarifications	552
D. Charitable annuities and eligibility for paragraph 60(l) rollover . . .	554
16.4 Conclusion	555
Chapter 17: — INSURED ANNUITIES	
17.1 Introduction	557
A. What is an insured annuity?	557
B. Annuity characteristics	557
C. Insurance characteristics	557
D. Insured annuities — advantages and disadvantages	558
E. Owner profile	558
17.2 Personally-Owned Insured Annuities	559
A. General comments	559
B. Cash flow example	559
C. Treatment at death	560
D. Planning considerations	560
17.3 Insured Annuities Owned by Trusts	562
17.4 Corporate-Owned Insured Annuities	563

Table of Contents

A. General comments	563
B. Cash flow example — while living	563
C. Tax implications at death	565
i. To the corporation	565
ii. To the shareholder	565
D. Accounting for corporate-owned insured annuities	567
E. Planning considerations	568
F. Summary	568
17.5 Corporate-Insured Life Annuities — With Leveraging Before March 21, 2013	568
A. General comments	568
B. Leveraged-insured annuities — a general description	569
C. Risks involved	570
i. Interest rate fluctuations	570
ii. Interest deductibility	571
iii. Collateral life insurance deduction	573
iv. Deemed disposition at death	574
v. The General Anti-Avoidance Rule (GAAR)	574
vi. Tax shelter rules	577
D. Summary	578
17.6 Leveraged Insured Annuities on or After March 21, 2013	579
A. General comments	579
B. What is an LIA policy?	579
C. What are the consequences of being an LIA policy?	583
D. Summary	584
E. Subsequent CRA activity surrounding tax promoter schemes involving LIAs	584
F. A new GAAR	586
17.7 Insured Annuities in the Charitable Context	586
17.8 Conclusion	586
Chapter 18: — TAXATION OF STRUCTURED SETTLEMENTS	
18.1 Introduction	587
18.2 Taxation of the Plaintiff	587
18.3 Social Benefit	588
18.4 Social Policy	590
18.5 Taxation of the Owner	591

Table of Contents

18.6 Assignment	592
18.7 Financial Reporting	592
18.8 Practical Application	593
18.9 Disadvantages of the Structured Settlement	595
18.10 Benefits to the Payor	595
18.11 Conclusion	596
Chapter 19: — SEGREGATED FUNDS AND SEGREGATED FUND CONTRACTS	
19.1 Introduction	597
19.2 Segregated Funds versus Mutual Funds in General	598
19.3 Taxation of Segregated Funds	599
19.4 Taxation of Income Earned in the Fund	600
19.5 Disposition of an Interest in a Segregated Fund Policy	601
19.6 Acquisition Fees	603
19.7 Investment Management Fees Charged to the Fund	604
19.8 Investment Management Fees Charged Outside of the Fund	604
19.9 Interest Deductibility	604
19.10 Segregated Funds as Registered Investments	604
A. Segregated funds as a TFSA upon death	605
19.11 Residency, Segregated Funds and Withholding Taxes	607
19.12 “Fund of Fund” Segregated Funds	608
19.13 Guarantee Top-Up Payments	609
19.14 Guaranteed Withdrawal Benefits	610
19.15 Segregated Fund Policies Held by Corporations	610
19.16 Corporation to Corporation Transfers	613
19.17 Some Advantages of Segregated Funds	614
19.18 Combined Segregated Fund and Guaranteed Interest Accounts	615
19.19 Non-Resident Beneficiaries of a Segregated Fund Contract	616
19.20 Segregated Fund Contracts and Rules for Investments Presumed Sound under the <i>Civil Code of Québec</i>	617
19.21 Segregated Fund Contracts and Québec Matrimonial Regime Rules of Partnership of Acquests	618
A. Protection mandate in Québec and beneficiary designations on a segregated fund contract	618
B. Segregated funds and the superficial loss rules	618
19.22 Conclusion	619

Table of Contents

<i>APPENDIX</i>	621
<i>INDEX</i>	697