

Life insurance beneficiary designation guide

Life insurance can help clients achieve their estate planning objectives, as long as the insurance payout (also known as a “death benefit”) reaches the right person without attracting unwanted costs or fees.

In many real-world situations, reaching the right person can be complicated, personally and from a legal perspective. Particularly when the intended beneficiary is mentally incapable, a minor, a class of people, a trust, or a business entity like a corporation or partnership.

Use this guide to help clients navigate common issues and designate the right beneficiary for their policy. They’ll learn:

- How to communicate their chosen beneficiary
- What to consider and what could go wrong
- Alternatives for designating a beneficiary in different situations

Beneficiaries are organized by class so you can quickly access descriptions, guidance and procedures within each category.

1

Individuals

(including estates)

2

Trusts

(excluding estates)

3

Business entities

(corporations and partnerships)

This guide is intended for information purposes only and shouldn’t be construed as advice or a comprehensive resource on the legal or tax consequences to policyowners and beneficiaries arising from a particular beneficiary designation. Reasonable efforts have been made to ensure the accuracy of this document, but errors and omissions are possible. All comments related to taxation are general in nature and are based on current Canadian tax legislation and interpretations for Canadian residents, which is subject to change. For individual circumstances, consult with your legal or tax professional. This information is provided by The Canada Life Assurance Company and is current as of December 2019.

Tax consequences generally don’t apply when individual policyowners designate other individuals or certain trusts as beneficiaries. In contrast, for tax purposes, corporate policyowners typically designate themselves or in select cases other corporations, as beneficiaries. In the case of trust-owned policies, the policy beneficiary is typically the trust as well.

Beneficiary designations can be complicated. They’re affected by rules made in statutes and by the courts. This guide provides an overview of issues only. Clients should obtain their own legal and tax advice. The benefits and considerations in this guide generally relate to Ontario legislation, but may be relevant in other common law jurisdictions in Canada. This guide doesn’t reflect Quebec law and isn’t intended for use by financial security advisors in Quebec.

1 Individuals (including estates)

Designation format	Benefits and considerations	Alternatives
The estate		
<p>“The estate of John Doe”</p>	<ul style="list-style-type: none"> • Insurance payout made to the estate and subject to the claims of estate creditors and estate administration tax (probate) • Money distributed according to the policyowner’s will or provincial law if there’s no will 	Name a beneficiary directly
A family member		
<p>“Jane Doe”</p> <ul style="list-style-type: none"> • Name the beneficiary directly • Avoid using descriptions like “my wife” or “my brother” 	<ul style="list-style-type: none"> • Insurance payout made directly to beneficiary; bypasses the estate and isn’t subject to probate or the estate’s creditors • Policy potentially protected from the policyowner’s creditors under provincial law where a member of a statutorily protected class is named as beneficiary (the spouse, child, grandchild or parent of the person insured) • Be specific to avoid litigation and possible need for the insurer to pay proceeds into court 	If regulating access to insurance payouts is desired, designate a formal trust or use a settlement option if available
A minor child		
<ul style="list-style-type: none"> • Establish and designate either a formal trust set up by a lawyer or an informal trust set up through the insurer’s forms • (In the case of a formal trust, see the section below for designating trusts) 	If a trustee hasn’t been designated and a guardian of property for the minor hasn’t or won’t be appointed by the court, the insurance payout would be paid into court or the Public Trustee	Use a formal trust if a trust is desired after the beneficiary reaches age of majority
Descendents		
<p>“To James Doe and Jen Doe in equal shares per stirpes”</p> <ul style="list-style-type: none"> • Wording depends on policyowner’s wishes • Name children as beneficiaries together with either “per stirpes” (distribution by family branch) or “per capita” (to the beneficiaries equally) 	<ul style="list-style-type: none"> • Example assumes John and Jane want their surviving grandchildren (James’ and Jen’s children) to take their deceased parent’s share equally • Must update beneficiary designation to account for future children of the policyowner 	<ul style="list-style-type: none"> • If policyowner wants to benefit all descendents, use a formal trust so the trustee(s) can determine the issue of John and Jane • If policyowner designates “To the issue of John Doe and Jane Doe, in equal shares per stirpes” the insurer will pay the death benefit into court if the issue of John and Jane can’t be determined
Mentally incapable		
<ul style="list-style-type: none"> • Establish and designate a trust for mentally incapable beneficiaries • Include trustee names and date of trust (See section below for designating trusts) 	<ul style="list-style-type: none"> • Use a formal trust or the insurance payout is made to a court appointed Guardian of Property or the Public Trustee • Depending on the province, consider establishing a “Henson Trust”, a formal trust that protects the insurance payout for the individual without affecting the individual’s government benefits • A Henson Trust is drafted by a lawyer and its terms give the trustee absolute discretion over trust assets 	Depending on the province, use a Henson Trust inside or outside a will to avoid jeopardizing government benefits

1 Individuals (including estates)

Designation format	Benefits and considerations	Alternatives
Irrevocable designation		
<p>“Jane Doe”</p> <ul style="list-style-type: none"> Name the beneficiary directly and check “irrevocable” in the insurer’s forms 	<ul style="list-style-type: none"> Policy may be protected from the policyowner’s creditors under provincial law Irrevocable beneficiary must consent to policy changes including, assignments, surrenders and policy loans Irrevocable beneficiary can’t give consent if they’re a minor and any policy changes may require a court-appointed Guardian of Property 	<p>Designate a formal trust as owner of the policy to address concerns about control</p>
Multiple primary beneficiaries		
<p>“John Doe” Or “John Doe, if living at the time of my death, otherwise his share of proceeds shall be payable to Jane Doe”</p> <ul style="list-style-type: none"> Wording depends on whether the policyowner wants survivorship to apply to the primary beneficiaries receiving the insurance payout 	<ul style="list-style-type: none"> Generally, a deceased beneficiary’s payout portion is shared between surviving primary beneficiaries If a policyowner has other objectives, add these details to the designation If necessary, draft a letter attached to the designation form explaining how the payout should be distributed; ensure it’s signed and dated by the policyowner 	<ul style="list-style-type: none"> Use a will or valid insurance declaration to explain how to distribute the insurance payout Have a formal trust receive the insurance payout and include terms for distributing proceeds

2 Trusts (excluding estates)

Designation format	Benefits and considerations	Alternatives
Formal trust		
<p>“Jim Smith, trustee, or any successor trustee of the [name of trust], dated [insert date]”</p>	<ul style="list-style-type: none"> Provide a copy of the trust agreement (and any amendments) to the insurer If limited by characters in an electronic application use “Trustees for [name of trust], [insert date]” Insurer will verify it’s dealing with the correct person(s) as trustee(s) when insurance payout distributed 	<p>Name a beneficiary directly and, if available, use a settlement option to regulate access to the insurance payout</p>
Informal trust		
<p>“Jim Smith, trustee for James Doe”</p>	<ul style="list-style-type: none"> Informal trusts are governed by provincial legislation and common law The beneficiary may claim control of the trust’s property upon reaching the age of majority The insurer’s forms let you name a trustee for minors, who may “invest the trust funds prudently and use the funds, any investment and any investment returns for the education, support and other benefit of the minor.” 	<ul style="list-style-type: none"> Use a formal trust if beneficiary is over the age of majority Name a beneficiary directly and, if available, use a settlement option to regulate access to the insurance payout

2 Trusts (excluding estates)

Designation format	Benefits and considerations	Alternatives
Formal insurance trust setup inside a will		
<p>“As per the will, dated [insert date], of [the life insured]”</p> <ul style="list-style-type: none"> • Use this language in the insurer’s forms 	<p>Follow this procedure and use the language from the left column in the insurer’s forms</p> <ol style="list-style-type: none"> 1. Provide a cover letter informing insurer that trustee(s) designated in the will are to receive the insurance payout on behalf of the insurance trust 2. Include a notarized copy of the terms of the trust in the will and its signature pages <p>Prevents the beneficiary designation from revoking the designation made in the will, resulting in the trustees relying on general Trustee Act provisions</p>	<p>Name a beneficiary directly and, if available, use a settlement option to regulate access to the insurance payout</p>
Formal insurance trust setup outside of a will		
<p>“As per the Insurance Trust, dated [insert date], of [the life insured]”</p> <ul style="list-style-type: none"> • Use this language in the insurer’s forms 	<p>Follow this procedure and use the language from the left column in the insurer’s forms</p> <ol style="list-style-type: none"> 1. Provide a cover letter informing insurer that trustee(s) designated in the trust settlement agreement are to receive the insurance payout on behalf of the insurance trust 2. Include a notarized copy of the terms of the insurance trust and its executed signature pages <p>Prevents the beneficiary designation from revoking the designation made in the insurance trust, resulting in the trustees relying on general Trustee Act provisions</p>	<p>Name a beneficiary directly and, if available, use a settlement option to regulate access to the insurance payout</p>

3 Business entities (corporations and partnerships)

Designation format	Benefits and considerations	Alternatives
Corporation		
<p>“ABC Corporation Inc.”</p> <ul style="list-style-type: none"> • Use the full legal name of the corporation • Avoid using a trade name 	<ul style="list-style-type: none"> • Ensure policyowner’s tax advisors are aware of the beneficiary designation • Provide notice to insurer if the corporation is amalgamated or continued in another jurisdiction • Consider using a shareholders’ agreement to address distribution of the insurance payout and use of the capital dividend account • Insurance payout will be available to corporate beneficiary’s creditors; if bankrupt, payout is made to trustee in bankruptcy 	<p>If the policyowner is a corporation then the beneficiary of the policy may also need to be that corporation, to avoid negative tax implications</p>

3 Business entities (corporations and partnerships)

Designation format	Benefits and considerations	Alternatives
Partnership		
<p>“ABC Partnership”</p> <ul style="list-style-type: none">• Use the firm name described in the partnership, limited partnership or limited liability partnership agreement• Avoid using a trade name	<p>Provide a copy of the partnership agreement to the insurer</p>	<p>Use a formal trust if partners are individuals and coverage is to fund a buyout on death</p>

