STEP Canada
ADVISING FAMILIES ACROSS GENERATIONS

January 5, 2026

Lindsay Gwyer
Director General, Tax Legislation Division
Tax Policy Branch, Department of Finance
90 Elgin Ottawa, ON
K1A 0G5

Via email: Lindsay.Gwyer@fin.gc.ca

Re: Support for Comfort Letter Request – Extension of 212.1(6)(b) Exception to Life Interest Trusts

Dear Ms. Gwyer,

STEP Canada is writing to express our strong support for the comfort letter request submitted by Doane Grant Thornton LLP, dated December 16, 2025, regarding the extension of the proposed graduated rate estate exception to the look-through rule in paragraph 212.1(6)(b) of the Income Tax Act to life interest trusts, specifically alter ego trusts, joint spousal or common-law partner trusts, and self-benefit trusts, in the context of post-mortem planning where there is a non-resident beneficiary.

We agree that the rationale for the exception currently available to graduated rate estates ("GREs") applies equally to life interest trusts, and that the denial of both the 40(3.61) and 212.1(6)(b) exceptions to life interest trusts may leave some of them with no practical means to avoid double taxation where there is a non-resident beneficiary. We agree with the December 16, 2025 letter that there is no policy justification for this disparate treatment, and it results in unfair and unintended tax consequences.

Additional Recommendation for Expansion: Spousal Trusts and 36-Month Limitation

Inter vivos spousal trusts (as defined in s.73(1.01)(c)(i)) are no less will substitutes than alter ego and joint spousal/common-law partner trusts and may be appropriate in circumstances where the settlor does not wish to be an income beneficiary. While testamentary spousal trusts are not, strictly speaking, will substitutes, assets are sometimes prematurely transferred by a GRE to a testamentary spousal trust before necessary post-mortem is completed - particularly in light of the CRA's recent comment at the 2025 STEP CRA Roundtable that formal conveyance is not required for property to be considered transferred by an estate to a testamentary spousal trust. In all cases, tax is imposed on the death of the life interest beneficiary (or the spouse beneficiary of a testamentary spousal trust), and the policy rationale for relief from double taxation applies equally.

We believe that extending the carve-out to all life interest trusts, inter vivos spousal trusts, and testamentary spousal trusts would achieve the best tax policy outcome and simplifies the scheme of the Act. To ensure fairness and consistency with the GRE exemption, we suggest that the look-through relief under paragraph 212.1(6)(b) be limited to a period of 36 months

following the death of the life interest beneficiary. This mirrors the GRE period and prevents potential mischief that could arise if the relief apply indefinitely.

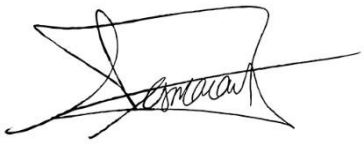
Broader Policy Context

The STEP Canada Tax Technical Committee and Public Policy Committee are reviewing the broader inequality that exists in the Income Tax Act between the post-death treatment of life interest trusts and graduated rate estates. Life interest trusts are widely used as substitutes for wills, yet their post-death tax treatment is significantly harsher than that of graduated rate estates. The specific issue in paragraph 212.1(6)(b) raised by Doane Grant Thornton LLP is just one aspect of a larger inequity that needs to be addressed.

STEP Canada would be pleased to discuss this request further or provide additional information at your convenience.

Kindly direct any enquiries to Michael Dodick, Chief Operating Officer, at mdodick@step.ca.

Yours truly,



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