



Hull & Hull LLP

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DETERMINING WHAT PROPERTY TO INCLUDE IN AN ALTER EGO TRUST

One of the essential purposes of an express trust, including an alter ego trust, is to hold property in the trust until it is distributed. While any kind of right or asset can usually be held in trust,¹ there are some limitations as to the types of property that an alter ego trust can hold. Building on last month's Solicitor's Tip,² which addressed the core features of alter ego trusts, this month's Tip focuses on what property can and cannot be included in alter ego trusts, and also considers a number of specific assets and their suitability for being placed in such trusts.

Guiding Principles: Property That Can Be Include in an Alter Ego Trust

A variety of assets can be placed in an alter ego trust, including real property, financial assets like investments and accounts, and business interests. Even loans owing from other trusts and companies can be placed in an alter ego trust.³ As a general rule, an alter ego trust can hold "capital property," being "depreciable property," on a tax-deferred basis.⁴

It is important to remember, however, that only property owned by the settlor or property that the settlor has an interest in can be transferred to an alter ego trust.⁵ Indeed, the *Income Tax Act* indicates that a rollover will only apply to transfers of capital property made by the tax payer, and that the transfer of property into the trust cannot "result in a change of beneficial ownership of the property."⁶

Specific Assets & Alter Ego Trusts

Despite the seeming simplicity of the principles articulated above, a number of complex considerations can arise if a client wishes to transfer any of the following assets into an alter ego trust.

1. The Settlor's Primary Residence

If a client's primary residence is transferred into an alter ego trust, it will still be eligible for the capital gains principal residence exemption. Notwithstanding this perk, it may not be advisable to place the

¹ Albert H. Oosterhoff, Robert Chambers and Mitchell McInnes, *Oosterhoff on Trusts*, 10th ed (Toronto: Thomson Reuters, 2024) at § 1:4.

² Suzana Popovic-Montag, "When Estate Planning Meets Tax Planning: When to Consider Using Alter Ego Trusts", *Solicitor's Tip* (3 February 2026), online: Hull & Hull LLP <<https://hullandhull.com/2026/02/solicitors-tip-february-2026-when-estate-planning-meets-tax-planning-when-to-consider-using-alter-ego-trusts/>> [February 2026 Tip].

³ See, for example, *Vines v. Wilcock*, [2025 BCCA 393](#) at para 8.

⁴ See RBC Wealth Management, "Alter ego trusts and joint partner trusts" *The Navigator*, online: <<https://ca.rbcwealthmanagement.com/documents/208666/2803661/Alter+ego+and+joint+partner+trusts.pdf>> at 3 [RBC]. Non-capital property cannot be transferred into an alter ego trust on a tax-deferred basis.

⁵ This is a general trusts principle that extends beyond alter ego trusts: see *Tilsonburg Scout Association v Scouts Canada*, [2020 ONSC 747](#) at para 25 (in order to settle property on trust, the settlor must either own property or have an interest in property).

⁶ RSC 1985, c 1 (5th Supp), ss 73(1), (1.01), (1.02)(b)(ii) [ITA].

property into an alter ego trust if a third party also uses the residence. As noted in the February 2026 Solicitor's Tip, once an alter ego trust is established, no one other than the settlor is entitled to receive or use any of the capital during the settlor's lifetime.⁷ This means that if a third party resides in the settlor's primary residence - even the settlor's spouse - there is a risk that the status of the trust may be jeopardized, as the third party would technically be using the capital of the trust.⁸

2. Jointly Held Property

If the settlor co-owns property with another person, it is still possible to transfer the settlor's interest in the property into an alter ego trust. For example, the settlor may transfer their interest in a property held as tenants in common into an alter ego trust so long as the conditions for a qualifying alter ego trust are met. However, as previously noted, if another person is using the settlor's property during the settlor's lifetime, transferring it into an alter ego trust may be unwise.⁹

Different considerations arise if property held in joint tenancy is transferred into an alter ego trust. While the court's decision in *Mong Alter Ego Trust No 1 v Yip* affirms that property held in joint tenancy may be transferred into an alter ego trust,¹⁰ it seems probable, in light of case law decided in Ontario, that such a transfer would sever the joint tenancy so that the co-owners hold their interests as tenants in common, thereby ending all tenants' survivorship interest in the property.¹¹

3. Life Insurance

An alter ego trust is not prohibited from holding life insurance policies; however, because such policies do not qualify as capital property under the *Income Tax Act*,¹² no benefit will be derived from including life insurance in an alter ego trust. Rather, there would simply be a deemed disposition on the fair market value of the life insurance policy at the time of the transfer.¹³ Moreover, given that complications could arise if the premiums of a life insurance policy are paid out of an alter ego trust, including such property in an alter ego trust is not recommended.¹⁴

4. Corporations and Corporate Shares

It may also not be prudent to transfer either a private corporation or corporate shares into an alter ego trust. As noted by Elizabeth Bozek and Maureen Berry, transferring a corporation "may be problematic depending on the nature of the business and the terms of any applicable shareholders' agreement, as well as income tax consequences arising with transferring control of the business to a trustee."¹⁵

⁷ February 2026 Tip, *supra* note 2.

⁸ Lindsay Ann Histrop, *Estate Planning Precedents: A Solicitor's Manual* (Toronto: Thomson Reuters, 1995) (loose-leaf) at § B:11 (the CRA's position on this point has been inconsistent in the recent past; see nn 214-215).

⁹ *Ibid.*

¹⁰ [2022 BCSC 1327](#). In this case, the settlor of the trust held the entire beneficial interest in the property; the other joint tenant, the settlor's daughter, held her interest in the property in trust for the settlor.

¹¹ See, for example, *Wong v Wong*, [2019 ONSC 3937](#) at paras 57-63, but please note that this case did not deal specifically with an alter ego trust. See also *Jackson v Rosenberg*, [2024 ONCA 875](#) at paras 53-54.

¹² *Supra* note 6, s. 53.

¹³ Elizabeth Bozek and Maureen Berry, "Alter Ego Trusts: The Jekyll or Hyde of Estate Planning? – An Examination of Why an Alter Ego Trust is an Estate Planning Tool that is not Appropriate in all Circumstances" in Anne Armstrong, *Estate Administration: A Solicitor's Manual* (Toronto: Thomson Reuters, 1984) (loose-leaf) at § RA:42 [Bozek and Berry].

¹⁴ *Ibid.*

¹⁵ *Ibid.*

If the settlor holds corporate shares as an individual, the loss carry back method under the *Income Tax Act* will be available to avoid double taxation; if, however, the shares are transferred into an alter ego trust, this method will be unavailable.¹⁶ It also merits noting that placing corporate shares into an alter ego trust is not necessary to avoid probate - estate administration tax can be avoided more easily by gifting corporate shares under a secondary will.¹⁷

5. Digital Assets

Before digital assets like online accounts are placed in an alter ego trust, it is important to review the terms of service - as noted by Bozek and Berry, transferring such assets may violate those terms.¹⁸ Moreover, probate may be required in order to access certain digital assets once their owner passes away, depending on the nature of the asset.¹⁹

6. Property That Is Eligible for Rollovers and Capital Gains Exemptions

It is also advisable to leave property that is eligible for rollovers and exemptions under the *Income Tax Act* in the settlor's estate - because an alter ego trust defers the taxation of trust property, it cannot benefit from rollovers and exemptions. For example, an alter ego trust cannot benefit from a spousal rollover under section 73 of the *Income Tax Act*, either rollovers or capital gains exemptions for qualifying farm property, or lifetime capital gains exemptions for qualifying small business shares.²⁰

7. RRSPs, RRIFs and TFSA accounts

RRSPs, RRIFs, and TFSAs cannot be transferred into an alter ego trust, as they must be held by individuals.²¹ If an RRSP or a RRIF were transferred into an alter ego trust, it would be necessary to withdraw the assets first, triggering the inclusion of their entire value in the settlor's income for that year.²² If a TFSA were transferred into an alter ego trust, it would have to be deregistered first and transferred to the trust as ordinary property, losing its TFSA wrapper.

Conclusion

When determining what property to include in an alter ego trust, the suitability of each asset should be considered. Generally speaking, capital property held by the settlor of the trust can be transferred into an alter ego trust; however, it is important to recognize that placing certain assets into an alter ego trust may not be beneficial. There may even be adverse tax consequences if certain assets are transferred into an alter ego trust. As such, to ensure that alter ego trusts achieve their intended tax and succession planning advantages without unintended consequences, deliberate, asset-by-asset analysis is recommended.

¹⁶ See the *ITA*, *supra* note 6, s 164(6); Bozek and Berry, *ibid*.

¹⁷ Bozek and Berry, *ibid*.

¹⁸ *Ibid*, n 87.

¹⁹ *Ibid* at § RA:42.

²⁰ *Ibid*.

²¹ See, for example, *Chalmers v Chalmers Alter Ego Trust*, [2017 BCSC 2646](#) at para 16. For TFSAs, see the *ITA*, *supra* note 6, s 146.2.

²² See RBC, *supra* note 4, at 3-4.