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2021 federal budget includes pension and other measures

On April 19, 2021, the federal government released the 2021 federal budget. The budget includes a number of announcements related to federally regulated pensions, pension tax rules, mental health supports and social security programs, among other items.

Correcting DC pension plan contribution errors

The federal budget proposes to allow for greater flexibility in correcting contribution errors for defined contribution (DC) pension plans. The proposals would permits certain such errors to be corrected through additional contributions to an employee's defined contribution account to compensate for an under-contribution made in error in the preceding five years, subject to a dollar limit.

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Plan administrators would also be permitted to correct for over-contributions in respect of any of the five years prior to the year in which the excess amount is refunded to the employee or employer who made the contribution.

Rather than amending the T4 slips for the prior years, administrators would need to file a prescribed form in respect of each affected employee.

Additional contributions to correct for under-contributions would reduce the employee's registered retirement savings plan (RRSP) contribution room for the year that follows. To the extent this results in negative RRSP room, it would only impact the employee's contributions in future years. Refunds of over-contributions would generally restore the employee's RRSP contribution room for the year.

This measure would apply in respect of additional contributions made, and amounts of over-contributions refunded, in the 2021 taxation year onwards.

Proceeding with 2019 federal budget announcements

The 2019 federal budget indicated that the government would amend tax rules to permit new forms of annuities, namely Variable Payment Life Annuities (VPLAs) and Advanced Life Deferred Annuities (ALDAs). It also proposed changes to limit pensionable service under individual pension plans and restrict contributions to a Specified Multi-Employer Plan (SMEP) for employees older than age 71. These changes were discussed in the March 2019 *News & Views*.

The 2021 federal budget indicates that the government intends to proceed with these proposals.

Revised framework for federally regulated negotiated contribution pension plans

The 2021 budget proposes to introduce amendments to the *Pension Benefits Standards Act, 1985* to establish a revised framework for multi-employer negotiated contribution pension plans with an aim to strengthening plan governance, transparency and sustainability of benefits.

Unclaimed assets regime

The federal government proposes amending the *Pension Benefits Standards Act, 1985* to expand the scope of the federal unclaimed assets regime to include unclaimed balances from terminated federally regulated pension plans. It will also increase the amount of information available and allow for the use of electronic communications in the context of the unclaimed assets regime. These measures would implement a proposal originally discussed in the August 2018 *News & Views*.

Increasing Old Age Security benefits for those 75 and over

The government proposes introducing legislation to increase regular Old Age Security (OAS) payments for pensioners 75 and over by 10% on an ongoing basis beginning July 2022. This would affect the benefits of approximately 3.3 million recipients.

The federal government further plans to provide a one-time payment of $500 in August 2021 to OAS recipients who will be 75 or over as of June 2022. Changes to *the Old Age Security Act* would be made to exempt the payment from the definition of income for purposes of the Guaranteed Income Supplement.

Social Security Tribunal

The government is proposing amendments to the *Department of Employment and Social Development Act* to improve the dispute process for income security programs, namely the Canada Pension Plan and Old Age Security.

Electronic tax documents

The federal budget proposes to amend the *Income Tax Regulations* to allow the T4A (Statement of Pension, Retirement, Annuity and Other Income) and T5 (Statement of Investment Income) information returns to be provided electronically, without also issuing a paper copy and without the taxpayer's prior authorization. This would apply to information returns sent after 2021.

Postdoctoral fellowship income

Postdoctoral fellowship income is taxable, but does not qualify as "earned income" for RRSP contribution purposes. The budget proposes amending the *Income Tax Act* to provide RRSP contribution room in respect of such income commencing in 2021. Taxpayers would also be able to request additional contribution room in respect of income earned from 2011 to 2020.

Mental health services

The 2021 federal budget includes a number of items related to mental health supports:

- $45 million over two years to Health Canada, the Public Health Agency of Canada and the Canadian Institutes of Health Research to help develop national mental health service standards;
- $100 million over three years to the Public Health Agency of Canada to support mental health interventions for populations disproportionately impacted by COVID-19;
- $50 million over two years to Health Canada to support a trauma and post-traumatic stress disorder (PTSD) stream of mental health programming for populations at high risk of experiencing COVID-19-related trauma;
- $62 million to Health Canada to continue to provide tools and services to support mental health and well-being through the Wellness Together Canada portal;
- $597.6 million over three years for a targeted mental health and wellness strategy for First Nations, Inuit and the Métis Nation; and
- Extended funding for the Kids Help Line to deliver counselling services to youth.

The Public Health Agency of Canada continues to work with the Centre for Addiction and Mental Health to implement an expanded pan-Canadian suicide prevention service. The program will provide bilingual access to 24-hour crisis support using voice, text and online chat technology.

The Canadian Radio-television and Telecommunications Commission is launching a regulatory proceeding to consult on a proposed three-digit support hotline.

Comment

The 2021 federal budget includes some welcome proposals in respect of pension plans, including the simplified process to correct contribution errors in DC pension plans, rules for unclaimed pension amounts, and VPLAs and ALDAs. It should be noted that the full details for these proposals are not a part of the budget and the budget is subject to the approval of parliament.

FSRA offers guidance on leading practices for DB Multi-Employer Pension Plans

On March 16, 2021, the Financial Services Regulatory Authority of Ontario (FSRA) released a guidance document entitled Information No. PE0224INF: Defined Benefit Multi-Employer Pension Plans – Leading Practices (the DB MEPP Guidance), which sets out the results of its 2020 review of Defined Benefit Multi-Employer Pension Plans (DB MEPPs).

The 2020 thematic review focused on three key elements, namely governance, risk management and communication. The DB MEPP Guidance describes leading practices for DB MEPPs that FSRA identified during the review. These leading practices illustrate and build on the governance principles set out in the Canadian Association of Pension Supervisory Authority (CAPSA) Guideline No. 4.

In its thematic review, FSRA identified a number of "leading practices" for DB MEPPs:

1. A comprehensive orientation policy to on-board new trustees,

2. Trustee education policies to support trustees in fulfilling their role as plan fiduciaries,
3. A trustee succession plan to ensure continuity on the board of trustees and good plan administration,
4. Plan enrolment policies and procedures that support members remaining connected with their pensions,
5. An investment policy that considers industry leading practices relevant to how plan assets will be invested and how trustees will resolve conflicts of interest, should they arise,
6. A risk management policy that integrates funding and benefit policies and outlines the material risks facing the pension plan along with a plan to either mitigate or respond to these risks,
7. Plain language communication for plan beneficiaries as to the nature of their pension plan such that they can make informed decisions (including clearly explaining the potential and likelihood of benefit adjustments), and
8. Regular, ongoing dialogue between the trustees, advisors and key stakeholders involved in the plan supports awareness, collaboration, and operational effectiveness.

Benchmarking Ontario DB MEPPs

FSRA will develop and commence benchmarking leading practices for Ontario-registered DB MEPPs against the leading practices identified in the guidance. FSRA expects benchmarking will result in more unified governance, risk management, operational and communication practices across MEPPs, enhanced risk profiles, and improved focus on regulatory efficiency and effectiveness.

To support transparency and how practices outlined in the DB MEPP Guidance have been applied in the MEPP sector, FSRA will also aggregate and anonymize benchmark findings in a report to the sector. This report would be released by spring 2024.

Comment

The practices described in FSRA's new DB MEPP Guidance are directed specifically at DB MEPPs, and will therefore be of interest to DB MEPP trustees in Ontario. DB MEPP administrators should consider the DB MEPP Guidance as part of their own efforts to improve and maintain pension governance, risk management and communication practices, particularly in light of FSRA's future intentions in terms of benchmarking Ontario DB MEPPs against these leading practices.

Ontario releases 2021 budget

On March 24, 2021, Ontario released its 2021 budget, in a document entitled "Ontario's Action Plan: Protecting People's Health and Our Economy." The budget includes a new reporting requirement for defined benefit (DB) pension plans in respect of Pension Benefits Guarantee Fund (PBGF) exposure as well as a number of announcements of investments in mental health initiatives.

PBGF review

The 2020 budget announced that Ontario would conduct a review of the PBGF and include a report in the 2021 budget.

The 2021 Ontario budget reports that the PBGF is in a strong financial position. However, the number of plans covered by the PBGF has been decreasing as DB pension plans continue to close or convert to the jointly sponsored pension plan (JSPP) model. The declining number of plans paying into the PBGF leads to a concentration of risk among the remaining employers.

In order to improve its estimate of the PBGF's exposure to future claims and to determine the appropriate level of funding, Ontario plans to amend its regulations to require DB pension plan administrators to calculate and report their plan's PBGF claim exposure.

Mental health

There were also a number of mental health initiatives announced in the 2021 budget include the following:

- Additional funding of $175 million in 2021–22 for mental health and addiction services as part of the previously announced investment of $3.8 billion over 10 years;
- Developing a framework to identify and define the core mental health and addictions services to be made available to the people of Ontario, regardless of where they live;
- $7 million to help post-secondary students access mental health and addiction services;
- Four new mobile mental health clinics for remote, rural and underserved communities, which are scheduled to begin operating across Ontario in the summer of 2021;
- $8.4 million over three years to a "Crisis Call Diversion Program," to offer immediate support for individuals experiencing a mental health crisis. Mental health workers will be embedded in Ontario Provincial Police communications centres to offer immediate support for individuals experiencing a mental health crisis, offer referrals and help people find and access existing services;
- Supports for the prevention of post-traumatic stress disorder (PTSD) and other mental health disorders among first responders through early intervention; and
- Support for veterans' mental health and their transition to employment through the True Patriot Love Foundation.

CRA resumes enforcement of requirements to pay

The Canada Revenue Agency (CRA) has announced that, effective February 15, 2021, it has resumed enforcement of "requirements to pay" (RTPs) and "enhanced" RTPs. The CRA uses RTPs where it has been unable to collect a tax debt or make a suitable payment arrangement with the taxpayer, or believes that a third party owes or will owe money to a taxpayer. An "enhanced" RTP is similar, but gives the CRA priority over secured creditors and is used to collect outstanding payroll deductions, GST, HST and Air Travellers Security charges. Recipients are obligated to comply with RTPs or risk themselves becoming liable for the amount owing.

Employers and other parties in possession of RTPs dated April 1, 2020 or later are now required to comply with the terms of those RTPs. RTPs dated March 31, 2020 or earlier will not be enforced.

In March 2020, the CRA informed employers and banks that they were temporarily not required to comply with or to make remittances based on existing RTPs. The suspension of active RTPs was one of a number of measures introduced by the CRA intended to assist individuals and businesses having difficulty filing tax returns or experiencing cash-flow challenges during the COVID-19 pandemic.

Saskatchewan proposes defined benefit pension funding reform

On March 23, 2021, the Financial and Consumer Affairs Authority of Saskatchewan (FCAA) released a consultation paper proposing revisions to Saskatchewan's pension funding framework for single employer defined benefit (DB) pension plans, full funding on plan wind up, restrictions on contribution holidays and a statutory discharge upon the purchase of buyout annuities. The proposals are largely consistent with recent funding reforms implemented in other Canadian jurisdictions.

Proposals for defined benefit funding reform

In an effort to ease the funding pressures on DB pension plans, the FCAA is considering two main approaches to solvency funding reform: changing the way in which solvency deficiencies are funded and eliminating or reducing solvency funding requirements.

With respect to changing the way solvency deficiencies are funded, four options are being considered:

1. **Lengthen the amortization period for funding solvency deficiencies:** The amortization period for funding solvency deficiencies could be extended from the current five-year period. Going concern deficiencies would continue to be required to be amortized over 15 years.
2. **Re-amortization of solvency deficiencies:** The rules could be changed so that solvency deficiency payments schedules are consolidated and re-amortized at each valuation.
3. **Solvency reserve accounts (SRAs):** Rather than hold solvency payments in the same fund as other contributions, payments made in respect of solvency deficiencies could be held in a separate account within a pension fund. Sponsors could then withdraw some of the SRA funds if they are no longer needed.
4. **Letters of credit (LOCs):** Rules could permit LOCs to be used to cover solvency payments for up to a portion or the full amount of a plan's solvency liabilities.

The FCAA is also considering changes that would reduce or eliminate solvency funding requirements, while enhancing going concern funding requirements. Going concern funding could be enhanced by the addition of a provision for adverse deviation (PfAD). The PfAD could be calculated based on both going concern liabilities and on the plan's current service cost. The FCAA is considering several designs for PfAD requirements to address different types of risk.

The FCAA is also considering requiring that going concern deficiencies be amortized over a period of time shorter than the current 15-year period.

Full funding on plan termination

The FCAA is considering making solvency funding relief available by election. If a plan administrator elected to fund its plan under a new framework that eliminates or reduces solvency funding, it would have to fully fund all accrued benefits in the event that the plan were to be fully terminated.

Restrictions on contribution holidays

In addition to maintaining existing conditions, if Saskatchewan adopts any solvency funding relief measures, it will also consider applying new conditions to contribution holidays, such as:

- Requiring a plan to be funded above 100% on a solvency basis before a contribution holiday can be taken;
- Requiring a plan to be funded above 100% on a going concern basis before a contribution holiday can be taken; and
- Requiring a margin above the PfAD before a contribution holiday can be taken.

The FCAA is also considering a requirement for annual cost certificates to be filed in order to take contribution holidays.

Statutory discharge for buy-out annuities

The FCAA consultation paper proposes introducing a statutory discharge of liability for plans that purchase buy out annuities for former and retired members, and seeks input on the applicable conditions.

Comment

Saskatchewan would join a number of provinces in introducing or proposing defined benefit funding reform, including Ontario, Quebec, British Columbia, Manitoba, Nova Scotia and New Brunswick. The federal government has also undertaken a review that includes funding rules, as discussed in the December 2020 *News & Views*.

Public comments are permitted until June 11, 2021.

Saskatchewan financial hardship unlocking consultation

On March 11, 2021, the Financial and Consumer Affairs Authority of Saskatchewan (FCAA) released a consultation paper proposing an amendment to Saskatchewan's *The Pension Benefits Act, 1992* that would permit unlocking funds held in locked-in retirement accounts (LIRAs) for reasons of financial hardship.

Under the proposed new rule, LIRA holders in Saskatchewan who are experiencing financial hardship would be able to apply to the financial institution with which the account is held for a withdrawal of funds from the account. The amount of the withdrawal would be subject to a prescribed limit, and would only be available to account holders who meet one of the following criteria:

- Have low expected income in the upcoming year;
- Are facing a threat of eviction or foreclosure;
- Have high incurred or expected medical costs; or
- Require funds to secure a new principal rental residence.

The financial institution where the LIRA is held would be responsible for determining whether a LIRA holder qualifies for financial hardship unlocking.

The spouse of the LIRA holder, if any, would have to consent to the withdrawal and waive their entitlement to a continuing pension from the LIRA after death of the account holder.

Under the proposal, locked-in pension funds would need to be transferred to a LIRA before they can be accessed for reasons of financial hardship.

The consultation paper also proposes a "sunset clause" whereby the new financial hardship unlocking provision would expire after a number of years. Financial institutions offering LIRAs could be required to provide a semi-annual or annual statistical report to FCAA. The province would then consider whether the unlocking rule should be maintained or adjusted based on a review of how suitable the provision has been in addressing the challenges of financial hardship.

Financial hardship would be a mandatory provision for LIRAs and existing LIRA contracts would not need to be amended.

Comment

This proposal would see Saskatchewan join most other jurisdictions in Canada in permitting locked-in funds to be accessed for reasons of financial hardship.

The FCAA is accepting comments on the proposal until April 16, 2021.

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