Federal Government Publishes Technical Amendments To The Income Tax Regulations Impacting Pension Plans And Employee Stock Option Plans



On December 4, 2024, the federal government published technical amendments to the *Income Tax Regulations* in the *Canada Gazette*. These technical amendments will implement measures that were initially released for public consultation in August 2022 and August 2023, and many will be retroactively coming into force as of their respective date of announcement (or earlier).

Key technical amendments of interest to employers and pension plan administrators include:

- lowering the minimum period of employment from 36 months to three months prior to which employers can credit employees with pensionable service during various eligible periods of temporary absence and reduced pay
- lengthening the "eligible period of parenting time" from 12 months to 18 months to align with the maximum period of parental leave available in Canada
- adjustments to the "pension adjustment" calculation formula to account for the introduction of the year's additional maximum pensionable earnings and increases to old age security for individuals over age 75 (see our *FTR Now*, Final Phase of 2016 CPP Enhancements Takes Effect January 1, 2024)
- alignment with provincial pension legislation regarding individual asset transfers from registered pension plans that occur in two stages (e.g., when the plan is underfunded)
- relief in the scenario of missing members that have died before being located, by providing permission under the tax rules to calculate the present value of a pre-retirement death benefit with reference to a date after the member's death, where applicable pension standards legislation permits or requires redetermination of the benefit (we understand that the Tax Policy Branch intends further technical changes to the tax rules with respect to missing members that are not included in this set of amendments)
- implementation of a "permissible benefit" in the tax rules for registered plan members (or their beneficiaries) with shortened life expectancies
- adjustments to the tax rules for variable payment life annuities (see our *FTR Now*, Federal Budget 2019 – Something for (Almost) Everyone?)
- correction of unintended restrictions regarding the payment of survivor benefits

out of a registered pension plan
- permission for employees to exchange prescribed shares for other prescribed shares under certain conditions, without losing the employee stock option deduction available under section 110 of the *Income Tax Act*
- relaxed eligibility conditions to qualify as a specified multi-employer plan (SMEP) to allow registered charities and non-profit organizations to become participating employers, and to allow for non-unionized employees to join an SMEP if their employer has a "participation agreement" with contribution rates and benefits that are substantially similar to the collective agreements related to the SMEP

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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