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Canada Revenue Agency Announces Temporary COVID-19 Relief for Registered Pension Plans

Date: May 5, 2020

In response to industry requests, the Canada Revenue Agency (CRA) [announced](#) on May 5, 2020 that the minimum 1% employer contribution rule applicable to defined contribution (DC) pension plans is temporarily suspended. In addition, the federal Department of Finance issued a [comfort letter](#) confirming that it will recommend an amendment to the *Income Tax Regulations* (Regulations) to extend the deadline for electing to purchase a leave of absence on a current-service basis. These measures are intended to temporarily assist the sponsors and administrators of DC and defined benefit (DB) registered pension plans in light of the COVID-19 pandemic.

Defined Contribution Pension Plans – Temporary Suspension of 1% Minimum Contribution Rule

The Regulations require that the contributions to a DC or “money purchase” provision of a pension plan registered with the CRA be determined in a manner that is acceptable to the Minister of National Revenue. Pursuant to this requirement, CRA Newsletter No. 91-4R (issued in 1996) confirmed that a DC provision of a registered pension plan must provide for a minimum employer contribution of at least 1% of the total pensionable earnings of all active members participating under the DC provision. The requirement to make this minimum level of employer contributions to a DC plan must be satisfied in each plan year.

On May 5, 2020, the CRA announced that if a registered plan is formally amended to reduce or suspend DC contributions in 2020, the Minister of National Revenue will waive the minimum 1% contribution requirement for the remainder of 2020. This means that it will now be possible to amend a pension plan to suspend both employer and employee DC contributions for the remainder of 2020. In order to take advantage of this relief, a registered pension plan must be amended and the plan amendment must be submitted for registration to both the CRA Registered Plans Directorate and the applicable provincial or federal pension regulator.

While this announcement will likely be welcome news to many DC plan sponsors, it should be noted that plan administrators must continue to satisfy any requirements under applicable minimum standards pension legislation to provide notice to members of an amendment to reduce future employer contributions, along with any related amendment filing requirements. For example, some

minimum standards pension legislation requires advance notice and filing of amendments that reduce future contributions, including the Ontario *Pension Benefits Act*.

There are also employment law considerations. The ability to suspend employer contributions for unionized employees may be restricted by applicable collective agreement wording. For non-union employees, specific terms of employment contracts must be considered, alongside potential constructive dismissal concerns. Legal advice should be sought by any plan sponsors considering such an amendment.

Deadline to Report Past Service Pension

The Department of Finance Canada issued a comfort letter on April 29, 2020 to the Association of Canadian Pension Management (ACPM) indicating that it would be recommending the Regulations be amended to extend the deadline for members to elect to purchase credited service or make DC contributions with respect to a leave of absence or period of reduced pay that ended in 2019 (a “period of reduced services”).

A member of a DB plan can elect to have additional pensionable service credited on their behalf in respect of a period of reduced services on a current service basis under the prior year’s Pension Adjustment (PA), rather than through a Past Service Pension Adjustment (PSPA). For a member of a DC plan, an election permits retroactive employer and/or member contributions to be made in respect of the member’s period of reduced services and to have those contributions be included in the prior year’s PA. This process makes it easier for a member to make pension contributions when the member returns from an absence, instead of during the absence, and is often used in respect of pregnancy or parental leaves.

In the normal course, a member’s election must be made by April 30 of the tax year that follows the year the period ended. The recommended amendment will extend the deadline for plan members, whose period of reduced services ended in 2019, from April 30, 2020 to June 1, 2020 or a later date that is acceptable to the Minister of National Revenue. The Department of Finance’s recommendation has been made in response to the concerns of pension plan administrators and plan members who have faced difficulty communicating and meeting the original deadline of April 30, 2020 in light of the various business closures arising from the COVID-19 pandemic.

While there is no guarantee that the recommended amendment to the Regulations will be enacted, the CRA has [confirmed](#) its longstanding administrative position to allow taxpayers to act on proposed tax measures on the assumption that the proposed legislation will be enacted. As a result, CRA has advised that plan members can make the required election, in a manner consistent with the applicable plan’s requirements, on or before June 1, 2020. Later dates may also be requested by writing to the CRA’s Registered Plans Directorate.

We are continuing to monitor all developments relating to COVID-19. We are available to assist employers and plan administrators with the ongoing operation of their pension plans and can assist you with any submissions or communications with the CRA and other pension regulators, including those relating to challenges arising due to the COVID-19 crisis.

If you have any questions, please contact any member of our [Pension, Benefits and Executive Compensation practice group](#).