STANDARD LIFE

Group Savings & Retirement

Legislation matters

*The Standard Life newsletter on legislation and governance*

*July 2008*

# 1 Tax-Free Savings Account (TFSA), the new plan in town!

Everyone was caught by surprise when the Federal Minister of Finance, Mr. Jim Flaherty, proposed a new savings plan, the Tax-Free Savings Account (TFSA), in his budget on February 26, 2008.

However, experts in the pension industry agree that this is probably the most significant proposal in terms of a savings vehicle since the introduction of the RRSP in 1957.

From the beginning, the TFSA has raised a good deal of interest from the industry and from our clients.

Standard Life is working to add the TFSA to its product offering, starting in January 2009. A task force is currently studying all the implications of integrating the TFSA under our platform focussing on a simple implementation approach for new and existing clients of Standard Life.

Modifications to the *Income Tax Act* to introduce, among other things, the rules that will govern TFSAs were proposed with the introduction of Bill C-50. This Bill will be studied in depth in order for us to identify and understand all the changes, constraints and impact of the new TFSA. Bill C-50 has been adopted and received Royal Assent on June 18, 2008. The new measures on the TFSA will come into force on January 1, 2009.

We will keep you posted on any new developments. So, ***Stay tuned!***

The main differences between TFSAs and other defined contribution retirement or savings plans for 2009 are summarized in the following comparison table.

| | RRSP/DC RPP | Non-Registered | TFSA |
|---|---|---|---|
| Contributions tax deductible? | Yes | No | No |
| Annual Contribution Limit | 18% or $21,000/$22,000 | Unlimited | $5,000 |
| Cumulative Limit (i.e., Carry forward of unused contribution room) | Yes | N/A | Yes |
| Withdrawals create contribution room for the following years? | No | N/A | Yes |
| Tax on withdrawals? | Yes | No (except for untaxed income in that year) | No |
| Investment earnings taxable? | No | Yes | No |
| Creditor protection? | Yes for RPP and for RRSP under certain conditions* | Yes under certain conditions* | Yes under certain conditions* |
| Locked-in? | RPP only | No | No |
| Maximum Age for Contributions | 71 | None | None |
| Maximum Age for Commencing Withdrawals | 71 | None | None |

**i.e. under insurance policy and certain beneficiary designations.*

# 2 New federally regulated Restricted Life Income Fund (RLIF) and the Restricted Locked-in Savings Plan (RLSP)

In the 2008 budget, the Federal Minister of Finance, Mr. Jim Flaherty proposed more flexibility for federally– i.e., *Pension Benefits Standard Act, 1985* – regulated Life Income Fund (LIF) owners as follows:

- LIF owners 55 or older will be entitled to:
  - A one-time conversion of up to 50% of LIF holdings into a tax-deferred savings vehicle with no maximum withdrawal limits.
  - Wind up their accounts with the option to convert to a tax-deferred savings vehicle. This will apply to owners with small holdings of up to 50% of the Yearly Maximum Pensionable Earnings (YMPE)*.
- LIF owners facing financial hardship will be entitled to unlock their funds up to 50% of the YMPE*.

***50% of YMPE in 2008 is $22,450 adjusted to reflect the increase in the average industrial wage.***

These new measures became effective May 8, 2008 with the creation of two types of contracts to accommodate the new unlocking rules: the ***Restricted Life Income Fund (RLIF)*** and the ***Restricted Locked-in Savings Plan (RLSP)***.

The end result of these new measures is that there will be four federally regulated locked-in vehicles:

- Locked-in RRSPs
- LIFs
- RLIFs
- RLSPs

The new unlocking rules apply as follows:

### One-Time 50% Unlocking

- This option is only allowed for RLIF owners 55 or older.
- They are allowed, upon the creation of an RLIF, to transfer 50% of the RLIF assets into either an RRSP or a RRIF with no maximum withdrawal limits, as long as this transfer happens within 60 days of the creation of the RLIF if:
  - Assets are transferred from a pension plan, a locked-in RRSP or a LIF, and
  - The RLIF owner provides the RLIF carrier with an attestation, which is in a prescribed format, from his/her spouse or common-law partner indicating that he/she assents to the transfer. If the owner does not have a spouse or common-law partner, he/she is required to provide an attestation to that effect.
- Thereafter, the RLIF is subject to the same limits upon maximum and minimum annual withdrawals, and to the same limits on extraordinary withdrawals (e.g., withdrawals due to reduced life expectancy), as a LIF.
- In order to ensure that the 50% unlocking option is only applied once:
  - RLIF owners are not allowed to transfer the assets back to a LIF or a locked-in RRSP.
  - Transfers from an RLSP are only allowed if the assets are transferred to another RLSP, an RLIF, a life annuity or, under certain circumstances, to a pension plan if the pension plan permits such transfer.
  - Transfers from an RLIF are only allowed if the assets are transferred to another RLIF, an RLSP, or a life annuity.

### Small Holdings Unlocking

- This option is allowed for LIF, RLIF and RLSP owners 55 or older. This option is not allowed under a locked-in RRSP.
- In order to use this option, the owner has to provide the carrier with the following documents, which are in a prescribed format:
  - An attestation showing his/her total holdings in federally (excluding provincially regulated similar funds) regulated LIFs, locked-in RRSPs, RLIFs and RLSPs, with all financial intermediaries, and attesting that this total is less than the limit for the current year, and
  - An attestation from his/her spouse or common-law partner indicating that he/she assents to the transfer. If the owner does not have a spouse or common-law partner, he/she is required to provide an attestation to that effect.

### Financial Hardship Unlocking

- This option is allowed for LIF, locked-in RRSP, RLIF and RLSP owners, regardless of age.
- This option allows owners who meet one or both of the conditions for financial hardship to withdraw a cash amount of up to 50% of the YMPE from any combination of federally regulated LIFs, locked-in RRSPs, RLIFs and RLSPs, within a calendar year, as long as all withdrawals are done within 30 days of the signing of the contract, as follows:
  - *Medical or disability related expenditures.* This option is available to owners that expect to make expenditures of more than 20% of their income in any given calendar year upon medical treatment or upon assistive technology or other expenditures related to a condition or disability that has been attested to by a licensed Canadian physician.
  - *Low income.* Any owner that expects to earn less than the low income limit of 75% of YMPE—in 2008, $33,675—is allowed to withdraw an amount based upon their expected income in any given calendar year. This maximum permitted withdrawal is calculated as 50% of YMPE less two-thirds of expected income for the year (less financial hardship withdrawals).

Note that withdrawals based upon financial hardship are permitted for those who meet both of these conditions, but total permitted withdrawals for any calendar year, regardless of reason, will not be permitted to exceed 50% of YMPE.

- Owners making withdrawals based upon *medical or disability related expenditures* must provide:
  - A certification signed by a licensed Canadian physician that the treatment or assistive technology is required to accommodate a condition or disease (the form of this certification is not specified in the regulations, and is left to the discretion of the physician), and
  - An attestation, which is in a prescribed format, by the owner that he/she expects to make expenditures greater than 20% of his/her income, which must also disclose the amount of these expected expenditures.
- Owners making withdrawals based upon *low income* must provide an attestation, which is in a prescribed format, that they expect their income to be less than 75% of YMPE in the calendar year (not including financial hardship withdrawals), and which must also disclose their expected income for the year.
- In addition, owners facing financial hardship must provide the carrier with an attestation, in a prescribed format, from his/her spouse or common-law partner indicating that he/she assents to the transfer. If the owner does not have a spouse or common-law partner, he/she is required to provide an attestation to that effect.

## Other Considerations

All LIF, locked-in RRSP, RLIF and RLSP contracts entered into after May 8, 2008 must include these new unlocking options, as applicable.

Owners with existing contracts will be able to unlock their funds as soon as the necessary amendments are made to their contracts.

Owners who do not wish to use this new flexibility, however, are under no obligation to purchase a new contract. These changes will not affect their existing LIF contracts or locked-in RRSP contracts.

For individuals who do not currently have a LIF or locked-in RRSP but are in the process of establishing one, Standard Life will include the new provisions set forth in the amended regulations in all new contracts related to LIFs and locked-in RRSPs. Please note, however, that transitional provisions allow Standard Life a six-month adjustment period during which LIF and locked-in RRSP contracts will be permitted to continue to be drafted under the same current provisions.

# 3 Update on Phased Retirement

## Context

Phased retirement is not new in Quebec and Alberta (in Manitoba, the phased retirement provisions are not yet in force). However, very few older employees have decided until now to benefit from phased retirement. Restrictive provisions under the *Income Tax Regulations* made it unattractive for most people. Interestingly, the phased retirement measures in Quebec and Alberta were introduced, at first, to encourage older employees to retire early.

Since then, the context has changed considerably. On March 19, 2007, the Federal Minister of Finance, Jim Flaherty, tabled the 2007 Federal Budget, which proposed new provisions in the *Income Tax Act and Regulations* to allow older employees who are members of defined benefit (DB) pension plans to benefit from new phased retirement measures.

Amendments to the *Income Tax Regulations* were adopted through Bill C-28, which received Royal Assent on December 14, 2007 to accommodate phased retirement. As a result, an employee who has attained age 60, or who has attained age 55 and who is entitled to an unreduced pension is eligible to receive bridging benefits on a stand-alone basis or to receive up to 60% of their accrued pension benefits from the pension plan while continuing to accrue additional benefits. The 60% limit is based on the amount of lifetime pension benefits, including the bridging benefits, that the employee would have received if fully retired.

## Next Steps

These new measures under the *Income Tax Regulations* came into effect on January 1, 2008 and constituted a first step towards the implementation of phased retirement under pension plans.

The next step is for the federal and provincial jurisdictions to amend their pension legislation in order to implement phased retirement measures.

### Federal

The federal *Pension Benefits Standards Act, 1985* has also been amended by Bill C-28, to allow members of federally regulated DB pension plans who are aged 60 or over, or 55 or over and eligible for an unreduced pension, to receive phased retirement benefits while continuing to work. The new phased retirement measures are not yet in force; Bill C-28 will come into force on a day to be fixed by order of the Governor in Council, probably later in 2008. The Office of Superintendent of Financial Institutions Canada (OSFI) will develop regulations regarding the information that plan sponsors will have to provide to members who will enter into a phased retirement arrangement. For more details, OSFI has issued *Update 28* last December that is available at **http://www.osfi-bsif.gc.ca/osfi/index_e.aspx?ArticleID=2132**.

### Quebec

On April 2, 2008, the Quebec Minister of Employment and Social Solidarity, Mr Sam Hamad was introducing Bill 68 to amend the existing measures governing phased retirement provided under the Quebec Supplemental Pension Plans Act.

At first, Bill 68 was providing the following:

- Members of DB pension plans who are aged 60 or over, or 55 or over and eligible for an unreduced pension, will be allowed to receive phased retirement benefits while continuing to work. The proposed measures regarding DB pension plans are essentially in line with the phased retirement measures provided under the Income Tax Regulations, with the exception of receiving bridging benefits on a stand-alone basis.
- The new phased retirement provisions will also be applicable to defined contribution (DC) pension plans. A DC pension plan may provide that an active member who is at least 60 years old but less than 65 may ask for a phased retirement pension benefit as long as he has concluded a phased retirement agreement with his employer. The annual amount of benefit to be paid under the phased retirement provisions will be limited to 60% of the annual maximum amount provided under a life income fund (LIF).
- A member of a pension plan with both DB and DC components will be entitled to receive a phased retirement pension benefit from each component within the prescribed limits for each component.

Bill 68 has been finally adopted on June 18, 2008 and received Royal Assent on June 20, 2008. The new measures on phased retirement were expected to come into force on the date of Royal Assent.

At the time of publication, any modifications to Bill 68 were not yet known.

## British Columbia

British Columbia has also introduced, through Bill 33, amendments to the *Pension Benefits Standards Act* to allow DB pension plans registered in British Columbia to provide phased retirement benefits. Individuals aged 60 or over, or 55 or over and eligible for an unreduced pension, will be able to work and contribute to their pension plan while simultaneously collecting a portion of their pension benefits.

Bill 33 has been adopted and received Royal Assent. The new measures on phased retirement will come into force by regulation of the Lieutenant Governor in council.

### You can contact us

Your feedback is important to us. If you have any comments about our publication, or if you would like us to address a particular issue or subject in a subsequent edition, please feel free to drop us a line at the following address:

**legislation.matters@standardlife.ca**

**www.standardlife.ca**

**The Standard Life Assurance Company of Canada**
**Standard Life Assurance Limited**

**GE11573-06-2008 GS**