

## A step towards the implementation of Pooled Registered Pension Plans (PRPPs)

The PRPP will be a defined contribution multi-employer pension plan in which unrelated employers, especially small and medium size companies without a company pension plan and individuals, such as self-employed persons, will be eligible to participate.

With the introduction of Bill C-25, also referred to as the *Pooled Registered Pension Plans Act* (the “Act”), the federal government is moving a step closer to implementing the PRPP framework that will translate into legislation.

The federal government will soon release a draft of tax rules applicable to PRPPs for comment. The rules will apply to both federally and provincially regulated PRPPs.

Once Bill C-25, any applicable regulations and appropriate changes to the *Income Tax Act* and Regulations are passed by the federal Parliament, the provincial governments will have to review their pension legislation and other provincial legislation for the PRPP to become a reality in the provinces.

Although some of the following will be prescribed by regulations, the main measures proposed in Bill C-25 are:

- ▶ The purpose of the Act is to provide a legal framework for the establishment and administration of a type of pension plan that is accessible to employees and self-employed persons and that pools the funds in members’ accounts to achieve lower costs in relation to investment management and plan administration.
- ▶ PRPP administrators will be subject to several obligations, such as:
  - A corporation will be eligible to administer a PRPP if it is the holder of a licence issued by the Superintendent of Financial Institutions of Canada, most probably including regulated financial institutions.
  - A PRPP administrator will not be entitled to accept any members before the PRPP is registered.
  - The PRPP administrator will have, before entering into a contract with any person with respect to the PRPP, provide proof to the person that it has a valid licence and that the plan is registered under the Act.
  - The PRPP administrator will not only have to monitor and report to the Superintendent any failure of contribution remittances by the employer, but it will also have to report any failure in the amounts that must be remitted to the PRPP.
  - PRPP administrators will have a fiduciary duty to PRPP members – i.e., act as a trustee for members – and a standard of care duty.
  - A PRPP administrator must not give, offer or agree to give an employer an inducement to enter into a contract with the PRPP administrator in respect of a PRPP.
  - PRPP administrators will benefit from a “safe harbour” provision, which will require that a PRPP providing investment choice to members provide investment options of varying degrees of risk and expected return allowing a reasonable and prudent person to create a portfolio of investments that is well adapted to their retirement needs. If the PRPP administrator complies with this provision and the regulations (which are not yet prescribed), then the PRPP administrator will be deemed to have complied with the prudent investment standard.
  - The PRPP administrator must not change an investment choice made by a member except on his request or in the circumstances (which are not yet prescribed) specified in the regulations.
  - A PRPP administrator will have to provide the PRPP to its members at low cost (the criteria should be prescribed by regulations).
  - PRPP administrators will have to file an annual information return and prescribed financial statements for the PRPP.

- ▶ It will not be mandatory for employers to offer or to contribute to a PRPP, but if they choose to offer the PRPP to its employees, the contract between the employer and the PRPP administrator must provide for the amounts in respect of employee contributions and employer contributions, if any, that must be remitted to the administrator and the frequency of those remittances, and for the consequences if the employer fails to comply with the provisions of the contract respecting those remittances.
- ▶ Full-time employees and part-time employees (i.e., after having completed 24 months of continuous service with the employer) will become members of the PRPP offered by their employer, unless they object to becoming members because of their religious beliefs or have opted out.
- ▶ Employees will have the right to opt out within 60 days after they've received notice of their membership in the PRPP from their employer or the PRPP administrator. Automatic contribution deductions for members who have not opted out will only start after this 60-day opting out period.
- ▶ The PRPP administrator will set the contribution rates and any increases to those rates for PRPP members. The administrator will have to inform members of the contribution rates and of any increases.
- ▶ A PRPP member may, after notifying the PRPP administrator, set a contribution rate of 0%.
- ▶ Assets accrued under the PRPP will be locked-in, except in case of disability or if the amount of assets in the member's account is less than 20% of the Year's Maximum Pensionable Earnings (YMPE) for the year in which the member terminates either his employment or his membership under the PRPP, or dies.
- ▶ In the event of termination of membership or employment or death of the member, the member or the survivor\*, will have the following options, subject to certain conditions:
  - Leave the assets in the PRPP and receive RRIF-like payments, called variable payments.
  - Transfer the assets to another PRPP or another pension plan, if that plan permits.
  - Transfer to a retirement savings plan of the prescribed kind (presumably a locked-in RRSP, or comparable plan).
  - Purchase an immediate or deferred life annuity.
- ▶ On or after January 1 of the year following the year in which a member reaches the prescribed age (yet to be fixed by regulations), the PRPP administrator may transfer the funds in the member's PRPP account to a prescribed account.
- ▶ In the event of the PRPP member's death, the survivor will have priority entitlement to the assets in the member's account. If the member has no survivor, the funds will be paid to the designated beneficiary, or if there is none, to the member's estate.
- ▶ PRPPs will be subject to other rules (i.e., the funds may be subject to division upon marriage or common-law partnership breakdown rules and plan termination and winding-up rules).
- ▶ As with a traditional pension plan, PRPP members will be entitled to receive information like annual statements. Interestingly, any requirement in the Act to provide a person with information may be satisfied by provision of an electronic document if certain conditions are met, such as the consent from that person.

There are several questions and issues that are still unanswered, starting with the tax rules that will be applicable to PRPPs. Before implementing the PRPP, the federal government must first change its tax laws to:

- ▶ No longer require employment of an employee with an employer to contribute to a private pension plan;
- ▶ Remove the requirement of a minimum employer contribution (i.e., minimum contribution of 1% of the total compensation for all active members) for a private pension plan.

As mentioned before, the federal government will soon release a draft of tax rules applicable to PRPPs for comment.

It is still unclear what the rules for the self-employed persons will be. Several rules will be prescribed by regulations, such as the management and investment of funds in members' accounts. These will include the way in which funds are to be held or the process by which investment options will be offered by PRPP administrators and the process by which choices among those options are made.

As a result, there is still a great deal of work before PRPPs become a reality in Canada.

We'll keep you posted.

\* "Survivor" means the person who is married to the member or who is party to a void marriage with the member at the time of the member's death, if there is no common-law partner, or the common-law partner who is the person who is cohabiting with the member in a conjugal relationship, having so cohabited with the member for at least 1 year immediately before the member's death.