Québec is the first and only province to implement its own version of the PRPP — the VRSP

In general, Bill 80 reflects the measures announced by Québec Finance Minister Bachand in his 2012-2013 budget, but it provides for some new rules as well. For more details on the 2012-2013 Québec budget, please refer to the April 2012 issue of *Legislation matters*.

Although some of the following will be prescribed by regulations, which will most likely be released towards the end of the summer, the main measures proposed in Bill 80 are:

- **Obligation to offer a VRSP to employees** – Employers that have at least 5 employees with at least 1 year of uninterrupted service, on December 31, 2012, and do not offer an RRSP or a registered pension plan for which payroll deductions may be made will have two years to offer the VRSP to their employees. Employers will have until January 1, 2015 to comply with the obligation of offering a VRSP to their employees.

Thereafter, any new employer who on December 31 of a year meets the above-mentioned criteria will have to offer the VRSP to their employees in the following year.

Employers with fewer than five employees with at least one year of uninterrupted service will not be required to offer a VRSP, but they can opt to offer it voluntarily. Plan administrators may not turn down an enrolment application from employers.

- **Automatic enrolment of workers** – If an employer is required to offer a VRSP, its employees will have to be automatically enrolled in the plan. However, they may withdraw from the VRSP within 60 days of enrolment.

A member may also terminate his membership in the VRSP, at any time. In this case, the employee may not become a member of the VRSP again before the end of a 12-month period after the date his membership terminated, unless the employer agrees.

- **Periodic re-enrolment** – Employees who have renounced or terminated their membership in the VRSP must be re-enrolled every two years from the date of renunciation or termination.
- **Voluntary enrolment** – Individuals who are not automatically enrolled, such as self-employed workers or individual savers, may enrol in a VRSP of their choice by contacting a plan administrator directly. Employees may also enrol in the VRSP of their choice at any time. Plan administrators may not turn down an enrolment application from individuals.
- **Contributions** – Employers will not be required to contribute to a VRSP. Employers that make contributions for their employees will be exempt from payroll taxes on said contributions. The employer's contributions will be deductible from its taxable income for both Québec and federal income tax purposes.

Members may choose their VRSP contribution rate. A default contribution rate will apply to participants who do not make this choice. The member default contribution rate will be set by regulation. However, as announced in the Québec budget, the member default contribution rate will be set at:

- 2% from January 1, 2013 to December 31, 2015
- 3% from January 1, 2016 to December 31, 2016
- 4% as of January 1, 2017

Like RRSP contributions, member contributions will be deductible from their taxable income.

Contributions to a VRSP will be subject to a member's RRSP maximum contributions for the year.

Members may, at any time, change their contribution rate of contribution to the VRSP. However, employees who are members of a VRSP provided by their employer will be entitled to change their contribution rate no more than twice per 12-month period, unless their employer allows them to. They will also be entitled to set their contribution rate at 0%, on the conditions determined by regulation.

- **Locking in** – Employer contributions will be locked in (locked-in account) until the member reaches age 55.

Member contributions will not be locked in (not locked-in account).

Funds in the locked-in account may be withdrawn if:

- A physician certifies that the member's physical or mental disability reduces his life expectancy.
- If the balance of the locked-in account is less than 20% of the YMPE in the year of termination.
- The member has not resided in Canada for at least 2 years.

Funds in the not locked-in account may be withdrawn at least once per 12-month period and at any time in cases of life expectancy reduction and non residency of Canada for at least two years.

Transfer of assets between the locked-in account and not locked-in account of the member will not be allowed.

- **Variable payments** – The VRSP may allow a member who has reached regulation age to receive RRIF-like payments from the VRSP. This also applies to the member's spouse*.
- **Death of a member** – In such event, the member's spouse* will have priority entitlement to the assets in the member's accounts. If the member has no spouse*, the assets will be paid to the member's successors. The spouse* may waive his or her entitlement to the death benefit.
- **Marriage breakdown** – VRSP assets may be divided upon marriage breakdown. The rules will be similar to those that already apply to traditional pension plans governed by the Québec *Supplemental Pension Plans Act*.
- **Investment choices** – VRSP administrators must offer a default investment option that meets the criteria prescribed by regulation, which should be based on a "lifecycle" approach where the risk level is adjusted based on the member's age. VRSP administrators may also offer other investment options of varying degrees of risk and expected return that would allow a prudent person to create a portfolio of investment appropriate for retirement savings and from among which a member may make an investment choice. The conditions with respect to these other investment options will be set by regulation, but they should provide that VRSP administrators may offer a maximum of five other investment options with prudent allocation of asset categories reflecting various risk levels.
- **Costs** – Costs and conditions of the VRSP will have to be the same for all employers who participate in the VRSP and for all individuals who become members of the VRSP. As one of the fundamental features of the VRSP is its low cost, the administrator will have to show the Régie des rentes du Québec that the management fees are comparable with those of institutional pension plans of a similar size.

Certain additional fees may be charged to the member, such as fees for personalized consulting services or transfers between VRSPs.

- **Filing and information** –VRSP administrators will have to file an annual information return of the VRSP along with the annual fees and a required financial statement within six months of the end of each fiscal year (i.e., by June 30) with the Régie des rentes du Québec. The end of the fiscal year for a VRSP is on December 31.

The VRSP administrator will have to provide each member with an annual statement of his account in the VRSP within 45 days of the fiscal year end. In addition, the VRSP administrator will have to provide an option statement to each member (or member's surviving spouse or successors, depending) within 30 days of the request for refund or transfer, or within 30 days following the date the administrator receives notice of the member's death.

- **Oversight of VRSP administrators** – VRSPs will be administered by life insurance companies, trust companies and investment fund managers; they will have to hold a license issued by the Autorité des marchés financiers (AMF).
- **VRSPs** – All VRSPs must be registered with the Régie des rentes du Québec, as they will be responsible for overseeing these plans and ensuring compliance with Bill 80. Only one VRSP per administrator may be registered with the Régie des rentes du Québec.
- **Employers** – The Commission des normes du travail (i.e., the commission for labour standards in Québec) will be responsible for overseeing employers concerning their obligation to offer VRSPs and they will intervene, in particular regarding complaints, to enforce the provisions of the law.

As mentioned before, the next step is for the Québec government to release draft regulations – most likely towards the end of the summer.

Standard Life is committed to offering the VRSP and is currently working on implemention. We'll keep you posted.

* "Spouse" means the person who:

a) is married to, or in a civil union with, the member; or

b) whether of the opposite sex or not, has been living in a conjugal relationship with the member, who is neither married nor in a civil union, for a period of not less than (i) 3 years or (ii) 1 year, if at least one child is born or is to be born from the relationship; or that person and the member have adopted together at least one child during their conjugal relationship; or that person or the member have adopted at least one child of the other during their conjugal relationship. The birth or adoption of a child during a marriage, a civil union or a period of conjugal relationship prior to the conjugal relationship in existence on the day as of which spousal status is established may qualify a person as a spouse.

