

February 14, 2012

Tax Policy Branch
Department of Finance
140 O'Connor Street
Ottawa, Ontario
K1A 0G5

Dear Sirs:

Re: Legislative proposals for the *Income Tax Act* and Income Tax Regulations

The Association of Canadian Pension Management (ACPM) is pleased to provide the following comments on the December 14, 2011 package of draft legislative proposals for changes to the Income Tax Act and the Income Tax Regulations to accommodate Pooled Registered Pension Plans ("PRPPs"):

1. As a general comment, the ACPM commends the Minister for proposing a regulatory scheme that recognizes the need of this plan for administrative simplicity and for its plan members to easily understand its operations.
2. Recognizing the benefits of both making use of the plan member's RRSP contribution room to control the maximum amount of annual contributions to a PRPP and of automatic enrolment for plan members, we are concerned that plan members may, as a result of these features experience a higher incidence of unintended over-contributions, particularly in certain situations such as a plan transfer from a RPP to a PRPP. S 204.1(4) provides for the Minister to waive the penalty tax in the event of a "reasonable error" provided "reasonable steps are being taken to eliminate the excess". The ACPM recommends that the waiver be broadly applied if a member withdraws the over-contribution upon being made aware of the "error".
3. The combination of existing tax provisions and the new measures related to PRPPs produce the following result:
 - DB plan members qualify for the pension income tax credit and income splitting immediately on starting their pensions;
 - DC plan members qualify for the pension income tax credit and income splitting immediately if they convert their account balance into an annuity;
 - DC plan members do not qualify for either until age 65 if they elect to receive variable benefits;
 - Under the proposed amendments, PRPP members will not qualify for either until age 65 whether they convert their balance into an annuity or elect to receive variable benefits.

Given that "low cost" is a primary objective and that the success of PRPPs will therefore depend on the level of uptake by Canadian employers, their employees and the self-employed, the ACPM believes that unfavorable and inequitable tax treatment of retirement income payments received by PRPP members should be avoided.

As stated in the explanatory note to section 147.5, PRPPs are intended to operate as multi-employer DC pension plans. Plan member benefits will be locked in so that they will have to be

used as retirement income. If and when PRPP members discover that access to their accumulated benefits is going to be limited similar to other pension plans, but that their tax treatment after retirement is not going to be as favorable as other pension income, they are not likely to continue to contribute when they change jobs or have another opportunity to stop contributing.

The Federal Government should therefore be encouraged to level the playing field in terms of the tax treatment of DB pension income, DC pension income and PRPP pension income before age 65. No changes are necessary or proposed for retirees who have reached age 65 or older.

Two possibilities to achieve this objective are:

- Developing a factual test (i.e. limited earned income) rather than an age-based test to ensure that the taxpayer receiving the pension income is retired and entitled to split their pension income and claim the pension income tax credit before age 65; or,
- Permitting variable benefit withdrawals up to a reasonable periodic amount to qualify for income splitting and the pension income tax credit before age 65.

Self-employed PRPP members, whose account balances are also proposed to be locked in for life, could also be accommodated in the same way. They also have a legitimate argument that since their PRPP accumulations are going to be restricted like other pension funds, when they are withdrawn after retirement they should also be taxed like pension funds before age 65.

The ACPM would be happy to meet with the Finance officials to work out the details of a mechanism that would provide equitable tax treatment for DB, DC and PRPP pension income.

4. The ACPM recommends that the standard of care in s. 147.5(9) be removed. This obligation is comparable to the additional qualifying criteria for Administrators and therefore is more properly addressed in the pension legislation. There is no comparable provision in s. 147.1 for Administrators of RPPs.

5. In other international jurisdictions the propensity of plan members to move between employers with a PRPP type plans has resulted in the proliferation of small accounts for each plan member at a number of plan providers. That has led those jurisdictions to consider the use of a widely understood, unique plan member identifier to allow ease of consolidation of these accounts by each plan member. The ACPM recommends that the Minister allow the Social Insurance Number to be used as the PRPP identifier for each plan member. It would be an ideal means of combating this potential problem of small or stranded accounts.

The Association of Canadian Pension Management (ACPM) is the informed voice of Canadian pension plan sponsors, administrators and their allied service providers. We regularly advocate and participate in public dialogue on pension issues.

Established in 1976, the ACPM advocates for an effective and sustainable Canadian retirement income system through a non-profit organization supported by a growing membership and a team of volunteer experts. Our members are drawn from all aspects of the industry from one side of this country to the other. We represent over 400 pension plans consisting of more than 3 million plan members, with total assets under management in excess of \$330 billion.

The ACPM promotes its vision for the development of a world leading retirement income system in Canada by championing the following Guiding Principles:

- Clarity in legislation, regulations and retirement income arrangements;
- Balanced consideration of other stakeholders' interests; and
- Excellence in governance and administration

Once again welcome the opportunity to provide our input on the proposed changes to the *Income Tax Act* and the Income Tax Regulations to accommodate Pooled Registered Pension Plans ("PRPPs"). Please feel free to contact us should you require clarification on the points raised herein or should you wish to discuss any other points in this regard.

Yours sincerely,



Bryan Hocking
Chief Executive Officer, ACPM