THE CANADIAN CHAMBER OF COMMERCE
LA CHAMBRE DE COMMERCE DU CANADA

Tax Rules for Pooled Registered Pension Plans (PRPPs)

Submission to the

Department of Finance Canada

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Introduction

The Canadian Chamber appreciates the opportunity to submit its views regarding the tax rules for Pooled Registered Pension Plans (PRPPs).

The Canadian Chamber was pleased that the federal, provincial and territorial finance ministers agreed at their December 2010 meeting to pursue a framework for PRPPS.

Canadian businesses need the flexibility to choose retirement savings solutions that fit their businesses' sizes and resources. At the same time, Canadians' retirement savings, income needs and employment circumstances vary significantly. The PRPP concept would offer more options to individuals as well as small and medium-sized businesses many of which have limited, or no, resources to support offering retirement savings plans.

The following comments received from members of the Canadian Chamber's SME Committee indicate how PRPPs would benefit smaller employers:

"As an SME that does not presently have any retirement pension plan options for its employees, but is definitely interested in an opportunity to do so (in a manner) that would be effective and efficient, the PRPP is a great option."

"…this (PRPPs) would be a great option to attract new talent to our business. A pension plan draws a lot of the skilled people that we need to the larger corporations and this would be a nice edge to add to a great business."

The Canadian Chamber believes PRPPs would give many businesses the flexibility and tools they need to help their employees save for retirement. PRPPs would also provide individuals and the self-employed with additional retirement savings options.

We hope that all levels of government will continue to work together to move PRPPs forward. Doing so has the potential to benefit the millions of Canadians who have either no, or insufficient, retirement savings.

Answers to questions posed in the consultation document

Administrator

Question: What restrictions, if any, should there be on the type of entity that would be permitted to be the administrator of a PRPP?

The Canadian Chamber expects that financial institutions, which currently provide Defined Contribution (DC) retirement plans to employers, to be the primary providers of PRPPs.

PRPP providers should be subject to oversight and supervision that ensures PRPPs are offered in accordance with the regulatory framework adopted. Regulators, not businesses or employees, should ensure that PRPPs and the behaviour of PRPP providers is appropriate. Employers should be able to select any available PRPP and not expected to be responsible for due diligence or monitoring the performance of the provider or the plan itself.

To the extent that organizations other than financial institutions offer PRPPs, they should be subject to the same regulatory oversight, taxation and capital treatment.

The federal or provincial/territorial governments should not subsidize or provide any preferential regulatory, tax or capital treatment to any provider including those in the public sector.

Primary Purpose Requirement/Requirement for Employer Contributions

Question: Should there be a primary purpose test for PRPPs? If so, what should it be?

The objective of creating PRPPs is to ensure that more Canadians have the opportunity to save for retirement through access to a savings mechanism similar to a workplace pension plan. Therefore, it makes sense for PRPPs to have a primary purpose test that focuses upon saving for retirement without the requirement of an employment relationship. Stating in the legislation that PRPPs should meet this "primary purpose" will ensure that all stakeholders understand this.

Contributions / Limits

To achieve PRPP's objective of ensuring that more Canadians have the opportunity to save for retirement through access to a savings mechanism similar to a workplace pension plan, the rules and processes associated with PRPPs must be as simple and straightforward as possible. Employers and employees will find PRPPs more attractive if they are able to take advantage of them with minimal effort and no confusion. Simplicity and clarity should apply to the rules regarding contributions and limits.

We believe that PRPPs should – as much as possible - incorporate rules similar to those of group RRSPs which are widely understood by employers and individuals. This would make it much easier for small businesses which do not have dedicated resources to administer pension plans. Maintaining simplicity in PRPPs will be vital to achieving a low-cost framework.

Question

a) Which approach − using the existing system of dual PA/RRSP limits or permitting contributions under the RRSP limits only − is the most practical?

The Canadian Chamber believes that permitting contributions to PRPPs under the dual system of PA and RRSP limits would create an approach that would be very complex for both employers and employees, negating the attractiveness of this type of savings vehicle. For PRPPs to be a success, they must be simple in their design and easy to understand.

The Canadian Chamber recommends that the federal government follow the rules and limits of RRSPs in general. RRSPs are relatively well understood by individuals and small business owners. Contributions to PRPPs would be made under employees' available RRSP limits. Similarly, self-employed individuals and employees with no employer involvement would contribute on the basis of their RRSP limits. The administrator would issue PRPP contribution receipts to members for tax purposes, which would allow deductibility of member–PRPP contributions similar to RRSP contributions.

By adopting RRSP rules, some minor adoption of pension and tax rules, such as locked-in provisions and employer contributions, will be necessary. More specifically:

- Exempting employer contributions from CPP/QPP, EI and other payroll taxes; and

- Allowing the locking-in of employer contributions—subject to existing rules on locking–in under the *Income Tax Act* and existing pension legislation.

These measures would encourage employers to establish PRPPs and allay concerns that they are being used for other than retirement purposes. It would also contribute to the overall goal of simplicity and low cost. If the funds are not locked-in, the administrative complexity and tax ramifications that ensue could increase the cost of PRPPs.

To provide individuals with flexibility, the framework should allow the transfer of PRPP investments to other locked-in vehicles—RRSPs or LIRAs, for example. This would allow individuals to consolidate their investments with a financial advisor when they deem it appropriate.

In the final analysis, the best option is one that achieves a harmonized approach across Canada—a common set of PRPP rules. Achieving harmonization would simplify the transfer of assets, allowing individuals to contribute to a PRPP regardless of their employment status and province of residence. It would foster labour mobility. Harmonization is also important in keeping costs low and avoiding confusion. The federal government should take the lead in pressing for harmonized legislation and regulations.

b) Would there be any administrative or compliance issues with reporting PAs for PRPP members of participating employers and issuing contribution receipts for other members?

The Canadian Chamber supports an approach that permits contributions under the RRSP limits only. We believe this is the simplest and most practical approach.

With this approach, there is no need to report the amount of the employee's Pension Adjustment (PA) on T4 slips. Nor is there a need to deal with special rules concerning the PA (for example, when an employee leaves a job during the year, is on/returns from a leave of absence, participates on a salary deferral arrangement, or works part-time).

Having to report PAs would make PRPPs extremely difficult and complicated to administer; increasing costs and reducing participation. Small business owners already spend a considerable (and disproportionate) amount of their resources to comply with regulations and their tax obligations. PRPPs must be simple, otherwise they will not meet their objective.

c) Should employers be solely responsible for determining and reporting PAs, as is currently the case for employers sponsoring an RPP, or should PRPP administrators determine PAs and provide them to employers to report on T4s? Alternatively, should administrators, instead of employers, be responsible for reporting PAs and employee PRPP contributions directly to members?

Employers should not be responsible for determining and reporting PAs. Many small businesses would find this extremely unattractive.

Providers/administrators of PRPPs should report all contributions directly to PRPP members (similar to reporting RRSP contributions) to ensure that such contributions are reflected appropriately in members' RRSP limits.

d) How should the tax rules address contributions in multiple PRPPs that exceed the contribution limits that otherwise apply for RPPs?

The RRSP over-contribution rules should apply to contributions made to PRPPs. This would eliminate the need to develop new rules and penalties surrounding excess contributions.

e) Under the RRSP-limits-only approach, what would be the best way to take into account direct employer contributions to a PRPP that would reduce a PRPP member's RRSP limit but that would not be deductible to the member as an RRSP contribution?

Administrators should be responsible for issuing PRPP contribution receipts to members. Members would receive a tax slip reporting:
1) Their contributions to PRPPs that can be used to reduce taxable income; and
2) Employers' contributions (if any) that would be entered onto an individual's tax return as information for the Canada Revenue Agency (CRA) to calculate available contribution room.

The Canadian Chamber believes this is the simplest and most transparent way to issue contribution receipts to PRPP members, and for members to fulfill their tax obligations.

Pensionable Service

PRPPs provide a tremendous opportunity to provide workplace retirement savings plans to more Canadians, particularly those employed by small businesses or the self-employed. PRPPs provide a way to make saving easier and at lower cost. The key to PRPPs' success is simplicity. Rules (those applying to taxes and other areas) that make PRPPs complex will result in unnecessary added cost and/or confusion and/or rejection by small businesses and individuals.

Regarding the questions under *Pensionable Service,* the Canadian Chamber recognizes there may be a desire – in some circumstances – to allow for the "purchasing" of past service within a Defined Benefit (DB) pension plan. However, to achieve PRPPs' policy goals plans need to be simple. Using the existing PA/Pensionable Service concepts will be far too cumbersome. As noted previously, we generally recommend the government build the PRPP using existing RRSP tax rules. The rules should not allow for past service purchases of PRPP "years" of employment.

The Canadian Chamber's responses to the following questions reflect the preceding comments.

a) Should any past service purchases (under a defined benefit RPP) of PRPP years of employment be permitted?

No for the reason outlined above.

b) If so, should past service purchases be restricted to those PRPP years where a PA was reported?

Our position is that past service purchases of PRPP years of employment should not be permitted.

c) If past service purchases were to be permitted for PRPP years where a PA was not reported but where there was employer oversight of PRPP participation (i.e., where an employer did not make direct contributions but oversaw the remittance of employee contributions), what mechanism could be used to verify years of pensionable service with an employer? What would be the associated compliance considerations?

d) Are there any practical ways to recognize years of participation in a PRPP for past service purchases in respect of self-employed individuals (i.e., individuals for whom there is no employer oversight) that would not raise significant verification and compliance issues?

The cost and complexity of introducing a new reporting requirement to compensate for lack of PA reporting far outweigh any potential benefit.

Leaves of Absence and Periods of Reduced Pay or Disability

a) Should the RPP prescribed compensation rules be extended to PRPPs?
b) If so, what should be the level of employer PRPP involvement required under such provisions? What would be the associated compliance considerations?

The success of PRPPs will be linked to their simplicity for small business owners and the self-employed. PRPPs should not allow prescribed compensation for the purposes of allowing PRPP contributions during leaves of absence and periods of reduced pay or disability. Requiring employer contributions to the PRPP to continue during leaves of absence or disability will act as a deterrent to small business owners to consider matching contributions.

Transfers

Would it be feasible and appropriate to allow transfers of surplus from a defined benefit RPP to a PRPP? If so, to what extent should such transfers be permitted?

It would not be appropriate to allow transfers of surplus from a DB RPP to a PRPP. This would add complexity. Also costs incurred by PRPP providers in administering a surplus for one employer will necessarily be borne by the PRPP as a whole which would not be equitable.

Employers who are converting to a Defined Contribution (DC) plan from a DB plan have other options to manage surpluses, including establishing a traditional DC plan under current pension legislation and using the surplus to fund future contributions. In reality, the number of DB plans that are small, open to conversion, and would consider a PRPP over a DC RPP is quite low, and should not be an area of significant focus for PRPP regulations.

Qualified / Prohibited Investments

a) What modifications, if any, should be made to the prohibited investment rules for RPPs to adapt them to PRPPs?

The Canadian Chamber does not see the need for any modifications to the existing prohibited investment rules for RPPs.

b) Should there be qualified investment rules for PRPPs (for example, similar to those that currently apply to RRSPs)?

PRPPs could be established with their own qualified investment rules similar to RRSPs. The Canadian Chamber does not favour any particular model.

Minimum Employer / Membership Requirement

a) Should there be rules requiring PRPPs to be established for a minimum number of employers or self-employed members?
b) If so, how many employers/members should be required to participate?

The Canadian Chamber does not have any perspectives to offer on this.

Forfeitures / Refunds

9. Are there issues around vesting and auto-enrolment that could increase complexity and compliance costs for employers and/or administrators in relation to the tax rules for PRPPs? If so, how could these issues be addressed?

In order to minimize the complexity for - and costs to – employers and individuals, upon auto-enrolment the opt-out provision could ensure that no remittance of contributions would be locked in the PRPP until an opt-out window has passed. Once the opt-out window has passed, contributions could vest and be applied to plan members' accounts. Any employer contributions received and applied to a plan member's account once the opt-out window period has passed should be 100 percent vested and locked into the PRPP. This would eliminate any tax reporting complications for the employer and/or administrator that could arise if there are contributions prior to opting-out.