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May 25, 2005

One-time or Prescribed Transfer of up to 50% of the balance in one or more Life Income Funds (LIFs) or Locked-in Retirement Income Funds (LRIFs) to a Prescribed Registered Retirement Income Fund.

Reference: The Pension Benefits Act, Section 21.4 and Regulation 76/2005

Section 21.4 of *The Pension Benefits Amendment Act* was proclaimed into law effective May 25, 2005, and the Pension Benefits Regulation was amended effective the same date.

The Amendment Act and Regulation 76/2005 can be accessed through the Pension Commission website at: http://www.gov.mb.ca/labour/pension/pensionlegislation/pensionlegis.html

The amendment gives Manitoba retirees greater control over managing their retirement savings by permitting a one-time transfer of locked-in pension funds to a Registered Retirement Income Fund (RRIF) that is not locked-in.

Further, the new legislation protects the rights and interests of spouses and common-law partners, both present and former. A transfer can only be made with the informed written consent of a cohabiting spouse or common-law partner, after he or she receives the required documentation concerning the proposed transfer. Further, an amount sufficient to satisfy a Pension Benefits Act credit splitting claim of a former spouse or common-law partner must be retained. It also ensures LIF or LRIF owners who have family support obligations which must be met are not able to avoid this responsibility by making a transfer.

The legislation will also ensure that the funds in the RRIF are not attachable by creditors but are subject to attachment for purposes of satisfying *Family Property Act* claims and maintenance orders.

SUMMARY OF CHANGES

Effective May 25, 2005, a LIF or LRIF owner who is at least age 55 may apply for a one-time transfer under section 21.4 of the Act, which is defined under the regulation as a “prescribed transfer”, of an amount up to 50% of the balance in one or more of his or her LIFs or LRIFs to a Registered Retirement Income Fund (RRIF) as defined in the *Income Tax Act* (Canada), the contract for which meets the requirements of the regulation (“prescribed RRIF”).

NOTE: An application for a prescribed transfer may only be made in respect **a LIF or LRIF that is locked-in under *The Pension Benefits Act* of Manitoba and regulation.**

According to section 21.4(4) of the Act, the maximum amount available for a prescribed transfer may be affected by:

- any amount that is payable to a former spouse or common-law partner as required by the credit splitting provisions under section 31(2) of *The Pension Benefits Act*,
- an order issued by the Maintenance Enforcement Program of the Department of Justice under *The Garnishment Act* to enforce a maintenance order, or
- an order issued by the Maintenance Enforcement Program under section 59.3 of *The Family Maintenance Act* to preserve assets.

The financial institution must provide the applicant and, if he or she was a pension plan member, his or her cohabiting spouse or common-law partner with information specified by the regulation that includes the maximum amount available for a prescribed transfer.

A prescribed transfer cannot be made by an applicant who was a pension plan member unless the spouse or common-law partner consents in writing by completing the "Spouse's/Common-law Partner's consent to transfer to a Registered Retirement Income Fund Contract". This form is required to form a part of the application form. The form including, "Comments and Instructions", can be accessed through the Pension Commission website at http://www.gov.mb.ca/labour/pension/forms/pdf/PRRIFspousalconsent.pdf

The applicant must file an application to the financial institution which must contain the information required under subsection 18.2(5.3) of the regulation, including a written statement from the Superintendent that the applicant has not previously made a prescribed transfer, and if required, the written consent of the cohabiting spouse or common-law partner.

Effective May 25, 2005, no amount may be paid out of a LIF or LRIF as temporary income. However, an owner who prior to May 25, 2005 was entitled to be paid temporary income from his or her LIF or LRIF in 2005 and does not make an application for a "prescribed transfer" from that LIF or LRIF, may continue to be paid temporary income until the end of 2005 based on the method of payment in that LIF or LRIF contract. Should the owner however subsequently make an application for a "prescribed transfer" from that LIF or LRIF, no further temporary income can be paid despite any provisions that apply to that LIF or LRIF contract.

Financial institutions currently on the Superintendent's List of Financial Institutions with approved forms of LIF or LRIF contracts that include temporary income are required to remove the temporary income provisions from their standard form of contract when the contracts are next amended. In the interim, institutions must administer these contracts as required by the new legislation.

Financial institutions will not be required to file a standard form of prescribed RRIF contract with the Pension Commission in order to accept prescribed transfers, but must ensure the contract complies with the regulation.

If you have any questions you may contact us at:

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