Accessing Pension Funds

Alberta
FINANCE

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Retirement

If you work in Alberta and your private employer has set up a pension plan, (and as long as you do not work in a federally regulated industry[1]), the benefits you earn from your pension plan are subject to the *Employment Pension Plans Act* (the Act). The Alberta public sector pension plans[2] are not subject to the Act. However, they do require that any money transferred from them must be locked-in under the rules of the Act.

When you quit your job or retire, you may be given the option to transfer your funds from the pension plan fund into a Locked-in Retirement Account (LIRA – sometimes called a locked-in RRSP). The LIRA is held in your name with a financial institution.

The transfer of benefits from the pension plan fund to a LIRA, however, does not change the fact that your pension plan was established to provide you with an income for the remainder of your life after you have retired.

As such, any funds transferred to a LIRA must ultimately be used to provide you with life-long retirement income, in the spirit and the intent of the original pension plan.

If you are at least 50 years old, you can start earning a pension regardless of the early retirement age that was set out in your pension plan. In other words, you can convert all or part of your LIRA into one or more of three options that will provide you with life-long retirement income:

1. Life Annuity

   Only insurance companies offer life annuities. These annuities provide you with a guaranteed level of income for your life in exchange for the amount of your LIRA. Payments from a life annuity are similar to receiving a monthly pension that is paid directly from a pension plan fund. Once you have chosen an annuity, the insurance company is unlikely to allow you to change the terms of it.

   The terms of an annuity, as well as the amounts paid out, depend on the terms of the contract that you sign with the insurance company. However, the Act requires that any annuity purchased using locked-in funds must pay you a retirement income for as long as you live.

[1] Federally regulated industries include banking, telecommunications, airlines, shipping, and other inter-provincial forms of transportation. In addition, federal civil servants, the military, and the RCMP follow the federal rules.

[2] Public Sector Pension Plans meaning: Public Service, Teacher, Management Employees, Local Authorities, Special Forces, Provincial Court Judges, and MLA.

If you have a pension partner[3] at the time you decide to start receiving a pension, you must choose a joint and survivor pension that pays a certain monthly rate for the whole of your life. If your pension partner outlives you, they will continue to receive 60 per cent of the pension for the rest of their life. You may only choose a form of annuity that gives your pension partner less than 60 per cent of your monthly pension for life if your pension partner agrees to waive (give up) their entitlement to the 60 per cent joint and survivor annuity.

2. Life Income Fund (LIF)

Many financial institutions, including insurance companies, banks, trust companies, credit unions, and fraternal benefit societies, are permitted to offer Life Income Funds (LIF). With a LIF, you have more of a say in the investment of the funds but it is not likely that you will be guaranteed a specific dollar amount of yearly income.

Your LIF must pay out a minimum yearly amount to comply with the rules of the *Income Tax Act*. The maximum amount that may be paid out is based on a factor that is calculated every year. Your financial institution would be able to provide you with more information regarding the calculation of the maximum amounts from your LIF.

You may not purchase a LIF unless your pension partner agrees to waive their entitlement to the 60 per cent joint and survivor annuity. When you die, your pension partner will get the rest of the LIF account. It will be transferred on a non-locked-in basis, but can still be tax deferred. Therefore, remaining funds can be moved into your pension partner's Registered Retirement Income Fund, or a Registered Retirement Savings Plan if your pension partner is under age 69. Your pension partner can transfer the money to a regular bank account, but taxes will be taken off as required by the *Income Tax Act*.

If you have no pension partner when you die, the account balance goes to the person you name as your beneficiary or to your estate if you did not name a beneficiary. The funds will be transferred to a regular bank account but reduced by taxes.

In the year you turn 80, you must use all of the funds in the LIF to purchase a Life Annuity to or transfer them to a Locked-in Retirement Income Fund. Again, if you have a pension partner, you cannot choose anything other than a joint life annuity unless your pension partner agrees to waive (give up) the 60 per cent survivor benefit.

[3] Your pension partner is the person you are legally married to and have not been living separate and apart from for 3 or more years. If you are not legally married, then your pension partner is the person (including a same-sex partner) you have lived with in a marriage-like relationship for at least 3 years or sooner if there is a child (either by birth or by adoption) in the relationship before the date you start your pension.

3. Locked-in Retirement Income Funds (LRIF)

   Many financial institutions offer the Locked-in Retirement Income Fund product. The LRIF is suitable for you if you want to leave as much money as possible for your beneficiaries. This is because the initial dollar value of your LRIF will decrease very slowly as long as you earn positive investment returns. However, payments from an LRIF can vary greatly because the maximum amounts paid to you depend entirely on the investment income earned.

   Your LRIF must pay out a minimum yearly amount to comply with the rules of the *Income Tax Act*. The maximum amount that may be paid out is based on the investment income earned by the LRIF. Your financial institution would be able to provide you with more information regarding the calculation of the maximum amounts from your LRIF.

   You may not purchase a LRIF unless your pension partner waives (gives up) their entitlement to the 60 per cent joint and survivor annuity. When you die, your pension partner will get the rest of the LRIF account. It will be transferred on a non-locked-in basis, but can still be tax deferred. Therefore, remaining funds can be moved into your pension partner's Registered Retirement Income Fund, or a Registered Retirement Savings Plan if your pension partner is under age 69. Your pension partner can transfer the money to a regular bank account. Just like with a LIF, taxes will be taken off as is required by the *Income Tax Act*.

   If you have no pension partner when you die, the account balance goes to the person you name as your beneficiary or your estate, if you did not name a beneficiary. The funds will be transferred to a regular bank account but reduced by taxes.

A LIRA can be split up among more than one of these three types of retirement income products as long as the resulting amount in any one individual product is not small enough to be unlocked. (See Access to Small Amounts below).

A LIF or LRIF may be converted into a LIRA at any time prior to age 69. A LIF can be converted into an LRIF at any age. An LRIF can only be converted into a LIF up to the end of the year you turn 80.

Unlocking Provisions of the Act

If you have locked-in funds in a LIRA, (or a LIF or an LRIF) there are three very specific situations that may allow you to "unlock" the funds. These provisions have been built into the Act for situations where a long-term payout of pension benefit doesn't make sense, or is not possible.

The unlocking rules allow you to transfer the locked-in funds to a regular bank account, but reduced for taxes. The unlocking rules also allow you to transfer the funds to a Registered Retirement Savings Plan or a Registered Retirement Income Fund tax-free.

1. Access due to a Considerably Shortened Life Expectancy

   If you have a terminal illness or a disability that will likely shorten your life considerably, and a doctor will confirm this in writing, you may be able to unlock your account. In order to unlock the funds, the locked-in contract must allow a cash-out due to this reason. You must also give your financial institution that holds the locked-in funds your doctor's letter.

   If your locked-in contract permits an unlocking on this basis, you can change the payment of your locked-in funds. You could transfer your funds to a regular bank account, transfer them to an investment account that is not subject to the Act, or receive a series of payments over a shorter period of time. The rule that restricts you from starting a pension no sooner than age 50 is removed, as is the requirement to pay out those funds in a set manner.

   You may not withdraw the funds unless your pension partner consents to waive (give up) their entitlement to a joint and survivor pension.

2. Access due to Non-Residency of Canada

   If you are no longer a resident of Canada for the purposes of the *Income Tax Act*, and Canada Revenue Agency (CRA) confirms this in writing, you may be able to unlock your entire account. In order to unlock the funds, the locked-in contract must allow a cash-out due to this reason. You must also give your financial institution a copy of the letter from CRA that confirms you are a non-resident of Canada for purposes of the *Income Tax Act*.

   If your locked-in contract permits an unlocking on this basis, you can change the payment of your locked-in funds. You could transfer your funds to a regular bank account, or transfer them to an investment account that is not subject to the Act. You do not have to wait until age 50 to access those funds, nor do those funds have to be paid out in a set manner.

   You may not withdraw the funds unless your pension partner consents to waive (give up) their entitlement to a joint and survivor pension.

3. Access to Small Amounts

Amounts held in a locked-in contract are deemed to be too small to be used to purchase a retirement income product if the dollar value of the account falls below a set level:

a. Any person, at any age, on any individual locked-in account can cash out the account if the dollar value of the account is less than 20 per cent of the Year's Maximum Pensionable Earnings (YMPE). The YMPE is a value used in determining the maximum benefit under the Canada Pension Plan and is adjusted every year, keeping pace with average wages. As a result, the "small amounts limit" usually increases every year.

   For the year 2006, this "small amounts limit" is $8,420. Any account balance below that amount can be transferred to a regular bank account or a regular RRSP. There is no application form or certification form that needs to be filled out. If the dollar value of the account is below the limit, you qualify to have the funds unlocked.

   You cannot withdraw $8,420 or less from a larger account and you cannot split an account into smaller accounts that fall below the threshold.

   If your account meets the "small amounts limit", you do not need your pension partner to agree to waive (give up) their rights to a pension because the amount is too small to provide a pension.

b. If you are over the age of 65 and the total of ALL your locked-in contracts as well as the amounts you have in a defined contribution pension plan is less than 40 per cent of the YMPE, then any one or all of those locked-in accounts could be unlocked. The money in the defined contribution pension plan (if applicable) would not be unlocked.

   For the year 2006, this limit is $16,840. Any unlocked contracts can be transferred to a regular bank account or a regular RRSP. If you qualify to have your money unlocked due to this provision, you must complete a *Declaration Accompanying Application for Lump Sum Payment* that you can get from your financial institution. No spousal waiver form is required.

Financial Hardship

Individuals with locked-in funds who face situations of financial hardship may apply to the Superintendent of Pensions for a release of some or all of the funds in their LIRA, LIF, or LRIF. There are 8 identified situations of financial hardship:

1. The account owner or their pension partner risks eviction from their principal residence due to overdue rent.

2. The account owner or their pension partner risks foreclosure of a mortgage on their principal residence due to a debt secured against the principal residence.

3. The account owner or their pension partner requires payment of first and last month's rent (or security deposit) on their principal residence.

4. The account owner faces medical and dental expenses, including medication, which are not covered by any insurance and a medical professional certifies the treatment or medication is reasonable to treat an illness or disability of the account owner, pension partner or a dependent.

5. The cost of alterations to their principal residence to adapt the residence due to a disability of an account owner, pension partner, or dependant (e.g.: wheelchair ramp)

6. The account owner's estimated annual income is less than 2/3^{rds} of the Year's Maximum Pensionable Earnings. (For the year 2006, this threshold level is $28,067).

7. The account owner requires the funds for payment of overdue income tax.

8. Any financial hardship situation the Superintendent considers would reasonably qualify as financial hardship.

8a. The account owner is a registered debtor under the Maintenance Enforcement Program of Alberta Finance.

There is no asset test to determine whether an individual qualifies for financial hardship, however, certain documents must be included with the application form as they apply to each circumstance.

1. Copy of the Eviction Notice.

2. Copy of the Foreclosure Notice.

3. Copy of the Lease/Tenancy Agreement indicating the monthly rental costs (and/or the security deposit) of the rental unit.

4. Copy of the Invoice outlining the costs of the treatment or medication and a Copy of a doctor's opinion that the treatment is reasonable for their patient.

5. Copy of the estimate of the cost to alter the primary residence; Copy of confirmation that public home care or private insurance won't cover the cost of the alteration to the principal residence; Copy of doctor's opinion that the account owner, their pension partner, or their dependant has a disability.

6. Completion of the Statement of Expected Income section of the application form.

7. Copy of a Writ of Seizure or a Copy of a Requirement to Pay.

8. Written explanation by the applicant, detailing the specific hardship and the costs of the hardship faced by the applicant, including copies of invoices, statements, or other documents as proof of financial hardship.

8a. Copy of the Maintenance Enforcement Order.

There is no filing fee required; however, a copy of the most recent statement of the locked-in account must be included with the completed application form.

If the funds in the locked-in account were transferred from the applicant's pension plan, the pension partner of the applicant (if any) must agree to the withdrawal. The application form contains a section the pension partner would complete to indicate the agreement of the withdrawal of the locked-in funds.

No pension partner agreement is required if the owner of the locked-in account received the funds as:

- a payment of a death benefit of a deceased pension partner, or
- a split of pension benefits on marriage breakdown of a former pension partner who had been a member in a pension plan.

Successful applicants will receive written consent from the Superintendent of Pensions to a release of funds from their LIRA/LIF/LRIF due to financial hardship. This consent letter must be presented to the financial institution holding the locked-in funds in order to have the funds released.

Frequently Asked Questions

1. I am under the age of 50 and cannot "turn on" my pension. I do not qualify for one of the above unlocking provisions and I am not facing financial hardship. Is there any other process to unlock my money? Is there an individual that I can appeal to so that I may have special exemption to the rules?

   No, there is not. Money earned in a pension plan was intended to provide you with life-long retirement income. The Employment Pension Plans Act (the Act) *requires that it be used for that purpose. No one has the authority to make an exception in your case.*

2. I realize that I cannot access my funds at all. However, I am concerned that Alberta Human Resources and Employment (AHRE) will say that I am ineligible for social assistance until I exhaust these funds. Will they reject my application based on that reason?

   No. If you do not have any access to your locked-in funds, then the fact that you have locked-in monies will not be used in determining your eligibility to access social assistance programs such as security for independence, disability, and employment insurance.

3. What happens to the money in my locked-in account when I die?

   When you pass away, money in any type of locked-in account is distributed to your pension partner (spouse) if you have one. If you don't have a pension partner, then the funds are distributed to the person you name as the designated beneficiary. Finally, if there is no one who qualifies under either condition, the funds will be distributed to your estate.

4. I am the pension partner (spouse) of a deceased locked-in account owner. How can the funds in the account be paid to me?

   If the money was originally in a LIRA, the funds may be transferred:

   - *To a deferred or immediate life annuity in your name that begins payments no earlier than when you reach the age of 50;*
   - *To a LIRA in your name; or*
   - *To a LIF or an LRIF in your name provided you are at least age 50.*

   If the money was in a LIF or an LRIF, the balance of the account will be paid to you as a lump sum amount (less applicable taxes) or may be transferred to your RRSP or RRIF on a tax-deferred basis.

5. I was named as the designated beneficiary of a locked-in account, and the account owner died (and did not have a pension partner). How can the funds in the account be paid to me?

   The money in the locked-in account will be paid as a lump sum amount (less applicable taxes) with no further locking-in restrictions.

6. I have $8,500 held in a LIRA. Is there any way to unlock that amount, considering it is so close to the 2006 small amounts threshold?

   The only way to qualify for the small amounts unlocking is to have an account balance below the "small amounts" limit. If you are over that limit, even by a dollar, then you cannot have any of your funds unlocked.

   Only if your account balance falls below the "small amounts" level could the funds be unlocked. This includes situations where poor investment returns and/or investment management fees reduce the dollar amount of the fund.

   Keep in mind that the small amounts threshold limits will increase as the Canada Pension Plan Year's Maximum Pensionable Earnings increase. Further, a LIRA cannot be split up into more than one account if the amount in any one resulting account is small enough to be unlocked.

7. I am 65 years old and have two LIRAs worth $15,000 in total. I qualify to unlock these accounts because the total value of the accounts is under the small amount limit for people age 65 and over. However, I need a copy of the Declaration Accompanying Application for Lump Sum Payment form. How can I obtain one?

   Your financial institution will have a copy of this form. You can also find this form on the pension publications and forms section of the Alberta Finance Web site at: ***www.finance.gov.ab.ca/business/pensions****. (Click on "publications and forms" link and download Form 46 – Declaration Accompanying Application for Lump Sum Payment").*

   If you do not have a computer, call (780)-432-8322. If you are calling from within Alberta, you can be connected without charge by calling the toll-free RITE line at 310-0000 and then dialing 427-8322.

8. I have a LIRA worth $3,500. Do I require a *Declaration Accompanying Application for Lump Sum Payment* form?

   No. The only time that form is required is for situations where you are over 65 years old and the total of all your locked-in accounts is more than 20 per cent but less than 40 per cent of the Year's Maximum Pensionable Earnings.

9. Can I split up my locked-in contracts into two or more contracts?

   Yes. However, you may not split up your locked-in contracts if one or more of the resulting contracts fall below the small amounts limit.

10. I have a mental and/or physical disability. Can I unlock my funds?

    It depends on whether or not a doctor would consider that your illness or disability would likely shorten your life considerably compared with what you might otherwise have expected if you didn't have the illness or disability. A doctor must make that assessment and be willing to sign a letter saying so.

11. What must my life expectancy be to qualify for unlocking due to a considerably shortened life expectancy?

    There are no specific recommendations for what qualifies as a considerably shortened life expectancy because this varies a great deal, depending on your age and your condition. All that is required for you to qualify under this unlocking condition is for you to have a written opinion of a doctor that your life will likely be considerably shorter than what you might otherwise have expected.

12. I have money in a locked-in account and my pension partner is terminally ill. Can I unlock those funds to help my pension partner?

    No. The money held in the locked-in contract was earned as your benefit as a member in a pension plan. As such, the special access provisions of the Act relating to terminal illness and disabilities apply only to you.

    However, you may be able to access some of those funds due to situations of financial hardship, if the funds in the locked-in account would be used for the payment of medical expenses (including medication) to treat the illness or disability of your pension partner.

13. I have been living outside of Canada for a few years. How do I apply for non-residency status?

    You would have to complete form ***NR73****, available from the Canada Revenue Agency* (CRA). *It is available online at:*

    http://www.cra-arc.gc.ca/E/pbg/tf/nr73/nr73-04e.pdf

    You can also contact the Forms and Publications Order Service of CRA. The call is toll-free at 1-800-959-2221.

14. I am considering leaving Canada shortly. When do I qualify as a non-resident of Canada for purposes of the *Income Tax Act*?

    The Alberta Superintendent of Pensions does not determine your residency status. Only CRA can determine if you are considered as a non-resident of Canada. Questions regarding non-residency determination should be directed to their attention at their individual income tax enquiries number: 1-800-959-8281.

15. Where can I obtain a copy of the financial hardship application form?

    Copies are available online at: ***www.finance.gov.ab.ca/business/pensions*** *(Click on "publications and forms" link and download Form 51 – "Application for Access to Alberta Locked-in Funds due to Financial Hardship").*

    If you do not have a computer, call (780)-427-8322. If you are calling from within Alberta, you can be connected without charge by calling the toll-free RITE line at 310-0000 and then dialing 427-8322.

16. I don't fit into any of the first seven categories of financial hardship; therefore I want to apply under Reason 8 – Other Situation of Financial Hardship. Will my application form be approved?

    People who complete the Financial Hardship Application Form and indicate that their situation of financial hardship is Reason 8 will have their application forwarded to a ministerial advisory committee.

    The committee will review a summary of the application form and will make a final recommendation to the Superintendent of Pensions to determine whether you may receive funds from your locked-in account. Your personal information is not provided to the committee; the committee is only aware of your personal circumstance.

17. Who sits on the ministerial committee? How often do they meet?

    The committee is a 3-person panel. One member is an employee representative (from the perspective of employees with pension plans), another member is an employer representative (from the perspective of employers who have established a pension plan), and the last member is a "citizen-at-large" having no specific stake in the pension industry. The committee meets at least once a month, although they can meet more often depending on the number of application forms they are required to review.

18. How long will it take to learn whether or not I can receive funds from my locked-in account due to financial hardship?

    Applications are reviewed on a "first come – first served basis". The number of applications received by our office will affect the review time of each application.

    You can help "speed up" the review process by ensuring that all required documents are submitted with your financial hardship application form.

19. I am over the age of 50 and am interested in starting a LIF, LRIF, or Life Annuity. Where can I obtain more information on these products?

    Further information concerning these pension products is available from the pensions Web site: ***www.finance.gov.ab.ca*** *or by telephone at (780) 427-8322. If you are calling from within Alberta, you can be connected without charge by calling the toll-free RITE line at 310-0000 and then dialing 427-8322.*

    You can also contact most financial institutions including chartered banks, trust companies, insurance companies, credit unions, or brokers who act as agents selling such products for these institutions to provide you with more information.