

# La Lettre **express**

Information bulletin on supplemental pension plans

30 October 1998

## **The Régie des rentes du Québec to continue orientation and training program for pension committee members**

In the fall of 1998, the Régie will offer another orientation and training program like the one that was given in the fall of 1997. Recently, new members of pension committees were invited to attend the orientation sessions that will be held in Québec (city) and in Montréal in October and November. In addition, a new training course will be given before the end of 1998. It will cover partition of pension plan benefits and will be for pension plan administrators, especially for administrators whose job is to answer questions about partition, prepare statements of benefits or carry out partition.

A training course on the taxation situation of pension plans will also be given early in 1999 by a representative of the Registered Plans Division of Revenue Canada. Plan administrators and their consultants will soon receive an invitation folder with complete information about the course.

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## **The Régie to analyze benefits statements**

As part of its supervision of the administration and operation of supplemental pension plans, the Régie des rentes du Québec is planning to carry out a sampling analysis of the statements of benefits that must be given to members and beneficiaries under the *Supplemental Pension Plans Act*. The analysis will cover the following benefits statements: annual statement, statement of cessation of active membership, statement concerning progressive retirement and statement concerning transfer of benefits between spouses. This new supervisory activity will begin this fall.

The planned study is intended to verify whether the benefits provided for in the *Act* are in fact correctly granted to plan members and beneficiaries. For this purpose, we will ask plan administrators to provide us with a sample of the statements, accompanied with predetermined supplementary information.

If it turns out that our analysis of benefits statements raises questions about the proper application of the *Act*, we will first contact the person who prepares the statements (administrator, actuary, accountant, insurer, etc.). If the information obtained from that person indicates real problems, we will then notify the plan administrator so that the necessary steps can be taken to correct the situation. If our study does not reveal any major problems, we will also notify the administrator.

In order to carry out its analysis, the Régie needs an accurate picture of plans for which someone other than the plan administrator prepares benefits statements. For that reason, on 31 July 1998, the Régie contacted certain firms to obtain lists of the plans and plan numbers for which the firms prepare one or more benefits statements.

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### **Recognizing same-sex spouses**

The courts have recently looked at the question of recognizing same-sex spouses in supplemental pension plans. Particularly, in the Rosenberg case, the provision of the Canada *Income Tax Act* which prohibits registered pension plans from having a definition of "spouse" that includes same-sex spouses was judged to be contrary to the *Canadian Charter of Rights and Freedoms*.

Since June 1998, Revenue Canada has, therefore, registered pension plans that have a definition that includes same-sex spouses. Revenue Canada also allows existing plans to be amended to that effect, provided the amendment is effective after 22 April 1998. This position of Revenue Canada is exclusively for registered pension plans. It does not apply to RRSPs (including locked-in retirement accounts) and RRIFs (including life income funds).

In Québec, Mr. Serge Ménard, the Québec Minister of Justice, has announced the government's intention to review all public laws in Québec (including laws governing pension plans) with a view to harmonizing the juridical definitions of de facto spouse and to extend those definitions to same-sex spouses. The Minister has stated that recognizing same-sex spouses would respect the spirit of the Québec *Charter of Human Rights and Freedoms*, which prohibits any distinction, exclusion or preference based on sexual orientation.

As far as we are aware, the courts have not yet ruled on the interpretation under the Québec *Charter of Human Rights and Freedoms* that must be given to the definition of spouse that is now found in the *Supplemental Pension Plans Act*. However, the Québec Commission des droits de la personne et des droits de la jeunesse is of the opinion that a same-sex spouse must have the same rights as an opposite-sex spouse under all pension plans subject to the *Act*.

For a pension plan to grant the same rights to same-sex spouses, it may be necessary to change the definition of "spouse" as it now reads in the plan text. The new definition must, however, continue to be in accordance with any other criteria provided for in the *Act*. Thus, as is the case for an opposite-sex spouse, a same-sex spouse cannot be recognized if the member already has a spouse by marriage.

For more informations,  
contact our:

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