

Newsletter

express

Information bulletin for supplemental pension plans

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What happens when there is a transfer between life income funds (LIFs) during the year?

Generally, when a fundholder requests a transfer from one LIF to another LIF during a given calendar year, the financial institution to which the funds are transferred cannot make any life income payment to the fundholder during that year. The fundholder must be sure to make any desired withdrawal before making a transfer.

The same rule applies to the payment of a temporary income, except in the case of fundholders under age 54. If such fundholders meet the conditions for entitlement to a temporary income, an amount can be paid to them even if their LIF has been transferred during a given calendar year.

The case Poulin v. Morency does not apply to sums transferred under the *Supplemental Pension Plans Act*

After the judgment rendered by the Supreme Court of Canada in the case Poulin v. Morency on 17 September 1999, some consultants have questioned the Régie about the effect of that decision, which concerned the unseizability and unassignability of sums originating in a pension plan governed by the *Supplemental Pension Plans Act*.

The judgment rendered in this case is particularly aimed at sums from the Québec Government and Public Employees Retirement Plan. The Court was of the opinion that the wording of section 222 of the *Act respecting the Government and Public Employees Retirement Plan* is not sufficiently clear to extend the unseizability of sums originating in that plan to seizable RRSPs.

According to the judgment, where the Québec legislature wishes to extend unseizability to certain sums originating in a pension plan to RRSPs, it expressly provides therefor. In this context, the Court cited section 264 of the *Supplemental Pension Plans Act*.

The decision rendered does not change or limit the scope of section 264, which provides that except for additional voluntary contributions, unseizability and unassignability extend to sums transferred to all plans referred to in section 98⁽ⁱ⁾ of the *Supplemental Pension Plans Act*, including another employer's supplemental pension plan, a locked-in retirement account and a life income fund.

(i) The plans affected by section 98 of the *Supplemental Pension Plans Act* are defined in section 28 of the *Regulation respecting supplemental pension plans*. In addition to the plans previously cited, they include the supplemental pension plans governed by a federal law, a law enacted by the legislation of another province or a similar foreign law and RRSPs with respect to the employee contributions with interest that could have been refunded.

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Determining the maximum amount that can be transferred to a retirement savings instrument whose balance does not have to be converted into an annuity

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Under section 19.1 of the *Regulation respecting supplemental pension plans*, an amount up to the upper limit of a life income payable from a fund for a given fiscal year can be transferred to a registered retirement savings plan (RRSP) or a registered retirement income fund (RRIF).

The portion of the upper limit of a life income that can actually be transferred to those instruments is equal to the difference between the upper limit of the life income and the minimum withdrawal required under the *Income Tax Regulation*⁽ⁱⁱ⁾.

However, where a fundholder requests payment of a temporary income, the upper limit of the life income can be transferred in its totality to the instruments mentioned if the portion of the temporary income that exceeds the upper limit of the life income (determined by assuming that the fundholder has not requested a temporary income) is equal or superior to the minimum prescribed withdrawal. If the portion that exceeds the upper limit of the life income is less than the minimum prescribed, the portion of the upper limit that can be transferred must be adjusted accordingly.

Take the case of a fundholder aged 56 at the end of 1999 and whose fund balance at the beginning of fiscal year 2000 is 150 000 \$. The fundholder requests the maximum temporary income, that is, 15 040 \$ as well as the transfer to an RRSP of the maximum withdrawal (upper limit) from his or her fund, which is 10 050 \$.

The maximum income to which the fundholder is entitled is 16 752,98 \$ (his or her adjusted life income withdrawal⁽ⁱⁱⁱ⁾ plus the temporary income, that is, 15 040 \$ plus 1 712,98 \$. Since the prescribed minimum withdrawal from the fund is 4 411,76 \$, the fundholder can transfer the entire amount of his or her life income upper limit to an RRSP. This is because the amount exceeding the life income upper limit of 6 072,98 \$ (16 752,98 \$ less 10 050 \$) is sufficient to allow the fundholder to withdraw the prescribed minimum withdrawal from his or her fund.

Assuming that the fundholder's fund balance is 300 000 \$ at the beginning of the fiscal year, the amount that can be transferred to an RRSP will be less than the upper limit of the fund's annual life income.

Since the minimum withdrawal is 8 823,53 \$ and the difference between the maximum income and the upper limit of the life income is 6 702,98 \$, that is, 26 802,98 \$ less 20 100 \$, the entire upper limit of the annual life income cannot be transferred to an RRSP. In this case, the maximum amount that can be transferred to an RRSP would be 17 979,45 \$, that is, 20 100 \$ less (8 823,53 \$ less 6 702,98 \$).

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(ii) To obtain more information on the minimum withdrawal required by the tax rules and on the forms needed to carry out a transfer from an annual life income upper limit to an RRSP or an RRIF, you should contact the taxation authorities.

(iii) Under section 20 of the *Regulation respecting supplemental pension plans*, the upper limit of a life income must be adjusted to take into account a temporary income. In the example, the adjustment is made as follows: $10\,050 \$ - (15\,040 \$ \div 1,804) = 1\,712,98 \$$.