Manitoba

Pension Commission

Update #34
Variable Benefits under a Defined Contribution Plan

Issued June 2007

Reference: *Pension Benefits Regulation, amendment 78/2007*

Pension Benefits Regulations 188/87 R was amended by Regulation Amendment 78/2007 effective June 12, 2007. The Regulation Amendment permits, but does not require, a pension plan with defined contribution provisions to offer a Variable Benefit pension (VB pension) directly from the pension plan through the establishment of a variable benefit account (VB account). Amendment 78/2007 can be accessed through the Pension Commission website at: http://web2.gov.mb.ca/laws/regs/2007/078.pdf

Members of a plan permitting VB pensions would have the option of receiving pension benefits directly from the plan. Those electing a VB pension would be able to determine how much income is withdrawn annually, subject to the minimum withdrawal required by the *Income Tax Act* and a maximum withdrawal determined under the Regulation Amendment. Investment earnings will continue to grow on a tax sheltered basis.

The following is a summary of some of the key principle elements that apply to pension plans that offer variable benefits.

Variable Benefits

- Variable benefits are those mentioned in paragraph 8506(1)(e.1) and subsections 8506(4) to (8), so far as applicable, of the *Income Tax Regulations* (Canada), and provided for in the Amendment Regulation.

- VB accounts may only hold Manitoba locked-in money.

- Where a pension plan with a defined contribution provision allows for the establishment of a VB account and payment of a VB pension, the plan must include certain contractual provisions that apply with respect to the VB account and VB pension provided for in the Amendment Regulation.

- To establish a VB account a member or former member must meet the plan's early retirement provisions.

- A member or former member who has a spouse or common-law partner at the time when the VB account is to be established, may not establish the VB account unless the parties have waived their right to a joint pension in accordance with subsection 23(3) of *The Pension Benefits Act* and section 27 of the Pension Benefits Regulation.

- The formula for the amount of VB pension payable to a member for a calendar year must be determined as follows:

   a. the minimum amount determined by subsection 8506(5) of the *Income Tax Regulations* (Canada), and
   b. the maximum amount determined using a hybridized LIF/LRIF income formula. i.e. the greater of the balance of the VB account multiplied by the applicable prescribed factor or the income and gains, net of any losses, earned in the fund in the previous year.

- The minimum withdrawal for purposes of the *Income Tax Regulations* is that which is required for a RRIF. This amount must be withdrawn in cash, less withholding tax. It should be noted however, that no minimum has to be paid to the participant unless he or she was the age specified in the Income Tax Act at the end of the preceding calendar year. The *Income Tax Regulations* permit the use of the member's age or his or her spouse's or common-law partner's age in determining the minimum withdrawal. The pension plan rules will determine how often this decision must be exercised.

- The plan may allow for a "specified beneficiary" as defined in the *Income Tax Act* which is a spouse or common-law partner so designated by a member or former member, to elect to either to continue to receive the payments being made to the member or former member from the VB account upon the death of that member, or transfer funds out of the VB account.

- The plan must provide that where a member or former member dies, the balance of the VB account must be paid
   a. to his or her surviving spouse or common-law partner, unless that spouse or partner has received or is entitled to receive all or any part of the balance under an agreement or order under *The Family Property Act*, or
   b. where (a) does not apply, to the designated beneficiary, or in the absence of a designated beneficiary, to the deceased's estate.

- Where a plan permits, a member or former member, may transfer funds to a VB account from another pension plan, a LIRA, a LIF, or a LRIF.

- A plan must provide a member or former member with the option to transfer funds in the VB account to another pension plan, a LIRA, a LIF, a LRIF or a life annuity contract. The administrator must, before making the transfer ensure that the receiving financial institution is authorized to hold locked-in funds or in the case of another plan will administer the funds as a deferred life annuity under this legislation.

- That where a person receiving a VB pension from the plan is rehired by an employer under the plan,
   a. the person may immediately become a member and accrue benefits under the defined contribution provisions of the plan, or
   b. at the person's option, the VB pension payments may continue or be suspended until membership in the plan is next terminated,
   c. any additional pension benefit credits earned in respect of the period of further employment must not be credited to the person's VB account while that person remains a member in respect of that employment.

- Annual disclosure to and selection by the member or former member of the amount of the VB benefit to be taken out in each year and for any options available to change the amount selected.

If you have any questions regarding this update you may contact us at:

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This update has no legal authority. The Pension Benefits Act of Manitoba and The Pension Benefits Regulation, 188/87 R amended should be used to determine specific requirements.