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# 2019 FEDERAL BUDGET COMMENTARY
# CHANGES RELATED TO RETIREMENT SAVINGS

Federal Finance Minister Bill Morneau tabled the 2019 federal budget on March 19, 2019. This commentary summarizes the changes in the new budget that affect retirement savings and pension. Budget changes that do not relate to retirement savings and pension have been covered extensively by many accounting and tax advisory firms and will not be covered in this commentary.

## Key Changes Related to Retirement Savings and Pension

### 1. Home Buyers' Plan

The budget proposes to increase the Home Buyers' Plan withdrawal limit from $25,000 to $35,000. This increase in the withdrawal limit will apply to the 2019 and subsequent calendar years for withdrawals made after March 19, 2019.

The budget also extends access to the Home Buyers' Plan after the breakdown of a marriage or common-law partnership, effective for withdrawals made after 2019.

### 2. Permitting additional types of annuities in registered plans

The budget allows two new types of annuities under the tax rules for certain registered plans. Advanced life deferred annuities (ALDA) will be permitted under an RRSP, RRIF, deferred profit sharing plan (DPSP), pooled registered pension plan (PRPP) and defined contribution registered pension plan (RPP). The commencement of an ALDA may be deferred until the end of the year in which the annuitant turns 85. In addition, variable payment life annuities (VPLA) will be permitted under a PRPP and defined contribution RPP. The measures will apply after 2019.

Draft amendments for measures related to ALDAs and VPLAs will be released for public comment, and then the government will consult on potential changes to federal pension benefits standards legislation to accommodate VPLAs for federally regulated PRPPs and defined contribution RPPs.

### 3. Contributions to a specified multi-employer plan (SMEP) for older members

The budget amends the tax rules to prohibit contributions to a SMEP related to a member who is 71 years of age at the beginning of the year and to a defined benefit provision of a SMEP if the member is receiving a pension from the plan, in certain circumstances. This amendment is intended to bring the SMEP rules in line with the pension tax provisions that apply to other defined benefit registered pension plans.

The measure applies to SMEP contributions made under collective bargaining agreements entered into after 2019, in relation to contributions made after the date the agreement is entered into.

### 4. Tax-Free Savings Account Carrying on Business

TFSA is liable to pay tax under Part I of the Income Tax Act (at the top personal tax rate) on income from a business carried on by the TFSA or from non-qualified investments. Under the current rules, the trustee of a TFSA (i.e., a financial institution) is jointly and severally liable with the TFSA for Part I tax while the holder of the TFSA is not. In cases where there are insufficient assets within the TFSA to pay any resulting tax liability (e.g., the TFSA holder withdraws the assets or transfers them to a different financial institution), the TFSA's trustee is liable to pay the tax owing. In contrast, a holder of a TFSA is liable for any tax imposed under Part XI.01 of the Income Tax Act, which applies in respect of the acquisition of a non-qualified or a prohibited investment by the TFSA.

To recognize that a TFSA's holder is typically in the best position to know whether the activities of the TFSA constitute carrying on a business, the budget extends the joint and several liability for tax owing on income from carrying on a business in a tax-free savings account (TFSA) to the TFSA unit holder. This measure applies to the 2019 and subsequent tax years.

### 5. Pensionable Services Under an Individual Pension Plan (IPP)

An individual pension plan (IPP) is a defined benefit registered pension plan that is primarily for the benefit of controlling shareholders and related persons.

Where an individual ceases to be a member in a defined benefit registered pension plan, the employee may transfer the pension commuted value in one of two ways:

(i) A transfer to another defined benefit plan sponsored by another employer (this is considered a transfer between two defined benefit pension plans and there is no applicable maximum transfer limit); or

(ii) A transfer to a registered retirement savings plan or similar registered plan (this is considered a transfer from defined benefit to defined contribution or money purchase and the maximum transfer limit in Income Tax Regulation 8517 is applicable).

In the current low interest environment, pension commuted values are relatively high and a transfer from defined benefit to a defined contribution plan such as a locked-in retirement account would result in the pension commuted value way in excess of the Income Tax Regulation 8517 limit, resulting in a significant lump sum that is immediately taxable.

The budget indicates that planning is being undertaken to circumvent the Income Tax Regulation 8517 transfer limits, which includes having the terminated employee establishing an IPP in a newly incorporated private corporation controlled by the individual.

The budget prohibits IPPs from providing retirement benefits for past years of employment that were pensionable services under a defined benefit plan of another employer other than the IPP's participating employer (or a predecessor). If assets are transferred in respect of prohibited service, it will be considered to be a non-qualifying transfer and included in income for income tax purposes. This proposal applies to pensionable service credited under an IPP on or after March 19, 2019.