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September 16, 2011

Gerard Lalonde
Director, Tax Legislation Division
Tax Policy Branch
Department of Finance
140 O'Connor Street
Ottawa, ON K1A 0G5

Dear Sir:

Re: IPP Proposals Contained in the 2011 Federal Budget

I am writing on behalf of the Conference for Advanced Life Underwriting (CALU). CALU was formed to meet the needs of Advocis members who specialize in advanced applications of life insurance and related financial services, including such areas as employee benefits, wealth accumulation, retirement planning, estate planning and business succession planning.

Advocis is the trade name for The Financial Advisors Association of Canada (TFAAC), which is the largest voluntary professional membership association of financial advisors in Canada, representing more than 10,000 advisors across Canada. Advocis members provide comprehensive financial and retirement planning, employee benefits planning, wealth management, estate and tax planning, risk management products and advice to millions of Canadians.

CALU and Advocis members are often engaged in providing retirement planning advice to small and medium-size business owners, employees and the self-employed. We are very concerned that the proposals contained in the 2011 Federal Budget relating to Individual Pension Plans (IPPs) will unfairly impact such business owners and employees who are attempting to save for retirement through a defined benefit plan arrangement.

In this submission we will outline the basis for these concerns and conclude with our recommendations on how to move forward in a manner that addresses Finance's concerns while preserving the overall benefit of these plans for small business owners and their key employees.

1. Background and Introduction

The Federal and Provincial governments offer a number of tax incentives for Canadians to save for retirement. Cornerstones to the Canadian retirement system are employer sponsored registered pension plans (RPPs) and individual registered retirement savings plans (RRSPs).

While the Federal government in 1991 made a number of reforms intended to establish greater tax parity between RPPs and RRSPs, differences continue to exist that favor RPPs. For example, depending on the age of the plan member, deductible contributions to a defined benefit RPP can be significantly higher than those available to participants in an RRSP.[1]

For these reasons, older employees may have a preference for participating in an RPP, and in particular a defined benefit RPP. However, many Canadians don't have access to these types of plans, either because their employer does not want to assume the costs and obligations of this type of plan, or they are self employed and don't qualify to establish an RPP. In fact, for a number of reasons, the percentage of Canadian employees covered by RPPs has declined over the past decade.[2]

This general trend away from employer sponsored RPPs, combined with reduced participation and contributions to RRSPs and the significant decline in stock markets in 2008, has increased concerns that Canadians will not be financially prepared for retirement. These concerns lead to the provincial and federal Ministers of Finance creating a Research Working Group on Retirement Income Adequacy, which reported back to the Finance Ministers in December 2009. Since then the federal and provincial governments have been exploring a number of different initiatives designed to enhance the level of retirement savings by Canadians.

The small business sector has been a significant driver of the Canadian economy and job creation. At the early stages of business growth, owners of such businesses have typically reinvested profits back into their companies and deferred the implementation of pension arrangements for themselves and key employees. Later, when the business has matured and become successful, the owners may consider an IPP. The IPP is generally subject to the same federal tax rules and provincial regulations as those applicable to a regular defined benefit plan. However, as discussed later in the submission, these plans are already subject to funding restrictions due to the "designated plan" rules in the Income Tax Act ("Act"). Also, the rules relating to the accrual of benefits are more restrictive than for defined benefit plans generally.

IPPs are becoming more popular in the small business sector due to trends, where an increasing number of business owners and key employees are reaching retirement age without having made adequate plans for their retirement through other registered and non-registered savings programs.

2. Proposals Contained in the 2011 Federal Budget

The 2011 federal budget proposes contains two proposals that affect certain defined benefit IPPs. These proposals are now included in draft legislation released on August 16, 2011.

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[1] As well, employer contributions to RPPs are not subject to payroll taxes such as Canada Pension Plan and EI contributions and RPP life annuity income qualifies for the pension income credit and pension splitting, irrespective of the age of the recipient.

[2] According to Statistics Canada, RPP coverage in the private sector decreased from 28% to 25% of private sector employees from 1999 to 2009. More startling, there has been a significant decline in defined benefit coverage in the private sector (from 76% to 56%).

The first change is that affected IPPs will be required to pay out to a member, each year after the member attains 71 years of age, an amount equal to the greater of:

- the regular pension amount payable to the member in the year pursuant to the terms of the IPP; and

- the minimum amount that would be required to be paid from the IPP to the member if the member's share of the IPP assets was held in a RRIF of which the member was the annuitant.

For IPP members who reach the age of 72 in 2011 or earlier, the required withdrawals will start in 2012. For IPP members who attain the age of 72 after 2011, the required withdrawals will start in the year in which they attain 72 years of age.

Second, for past service contributions made after March 22, 2011, the budget proposes that the cost of certain past service benefits under the terms of the IPP must first be satisfied by transfers from RRSP and RRIF assets (as well as money purchase registered pension plan assets) belonging to the IPP member and then by a reduction in the member's unused RRSP contribution room, before the new past service contributions are permitted.

These new rules will apply to a defined benefit IPP that:

- has fewer than four members, if at least one member is related for tax purposes to a participating employer in the plan; or

- is a designated plan, if it is reasonable to conclude that the rights of one or more members under the plan exist to avoid this new proposal.

3. Abuses these Proposals Intend to Prevent

Based on the explanatory notes released with the budget papers, as well as discussions with Finance officials, it appears that these proposals are designed to prevent certain unintended tax advantages and/or undue deferral opportunities available through the implementation of an IPP. Specially, the following concerns were noted:

a) Deferral of Tax on "Pension Surpluses"

Taxpayers may use an IPP as a transfer vehicle for the commuted value of the pension benefits under a defined benefit RPP. In some cases, the terms of the IPP may provide a much less generous pension in respect of past service, based on reduced employment earnings with the new employer (which is usually a company controlled by the plan member), a lower benefit formula, or both. The result is that much of the value of the IPP becomes pension surplus, which is not subject to any withdrawal requirements under the existing tax rules applicable to RPPs. As a consequence, the plan member is able to defer more of his or her retirement savings for a longer period of time than other RPP members or RRSP contributors. The minimum payout requirement is designed to address this concern.

b) Additional Contribution Room Created by Past Service Benefits

When an employee or employer makes contributions to an RPP in respect of past service, the current tax rules require that the employee either give up accumulated RRSP contribution room for those earlier years or, to the extent that the employee has made RRSP contributions in those previous years, to

withdraw a portion of RRSP assets (calculated by reference to a formula under the Act) which in turn are usually transferred into the RPP.

Where an employee switches from RRSP savings to an IPP at a later age, and is able to have past service recognized under an IPP, the amount required to fund the past service obligations can be much greater than the amount by which the plan member is required to reduce his or her RRSP assets or accumulated RRSP contribution room. This additional required contribution, which is funded by a tax deductible contribution by the employer under the plan, is considered to provide an inappropriate tax advantage.

The proposals that would require satisfying the cost of the past service benefits by transferring RRSP, RRIF and defined contribution RPP assets (or giving up accumulated RRSP contribution room) before new past service contributions can be funded by the employer is meant to address this issue.

4. Discussion of Proposed Changes

a) General Comments

(i) Tax Fairness

The new proposals are generally limited to plans with three or fewer members, and typically one of those members will be a significant shareholder of the participating employer. It is therefore clear from a tax policy perspective that these proposals are targeted at plans implemented for the benefit of small business owners and certain key employees. In other words, larger private companies and public companies that institute an IPP for more than three members will not affected by these rules.

We have been advised that this limitation was put in place as it is typically small business owners that are taking advantage of these planning opportunities. However, we do not believe this is a good policy rationale for targeting small business employers. If this type of planning is considered to be abusive, or creates unintended tax results, the rules should apply equally to all taxpayers that can take advantage of this type of planning, or not at all.

(ii) Access by Small Business Owners to Defined Benefit Pension Plans

As noted in the Background and Introduction, there is significant concern relating to Canadians having access to registered pension plans and, where they don't have such access, maximizing contributions to their RRSPs. As will be discussed in more detail below, the cumulative effect of these proposals could be to discourage small business owners from taking these actions. Instead, there will be greater incentives for small business owners to retain funds in their company, leaving such assets exposed to creditors and the potentially negative effect of economic business cycles.

b) Comments Relating to the Minimum Withdrawal Requirements

(i) The Rules Apply too Broadly

The commentary to the rules governing the requirement to make minimum withdrawals from an IPP indicate that these rules are targeted at situations where members of an RPP transfer funds into a new RPP, having as one of its purposes the creation of "pension surplus" that can accumulate on a tax deferred basis. However, the rules apply irrespective of how the surplus was accumulated, such as the case where the plan has achieved superior investment performance. The new rules would therefore impact IPP members even though no planning was undertaken to create "unintended" tax deferral opportunities.

(ii) The Rules Operate Retroactively

The new rules apply to both current and new plans, effective in 2012. It is our view that the retroactive application of tax legislation should only be implemented in the most extreme cases of abusive tax planning, or the where failure to make the legislation retroactive could result in a significant and unexpected impact on tax revenues. In the present situation we don't believe either of these circumstances exists.[3]

On the other hand, the following factors should support only prospective application of any new rules relating to minimum payments from an IPP:

- These rules can apply to taxpayers that had no intention of creating a "pension surplus" for tax avoidance purposes.

- These changes also have a significant impact on contractual and regulatory obligations, and could result in either increased costs to the plan sponsor or possibly a decrease in pension benefits as the plan members get older. This is to be weighed with the tax revenue savings from *both* proposed IPP measures which is estimated to be only $15 million per year over the next five years.

- An IPP that is primarily for the benefit of an individual who is connected with the employer and highly compensated employees[4] will be treated as a "designated plan".[5] A designated plan is subject to prescribed actuarial valuation rules, which are much more restrictive than those applicable to defined pension plans for regular employees.[6] Such plans are therefore already subject to rules that limit tax deferral opportunities.

- The CRA has the right to challenge and not register (and even deregister) plans it doesn't feel are in compliance with the provisions and intent of the Act and its regulations. The CRA has broadly communicated its position on the use of IPPs to create a "pension surplus" and has successfully challenged IPPs that have been established for this purpose. It is therefore unnecessary to enact these rules on a retroactive basis, given the fact that the current rules allow the CRA to deal with abusive situations.[7]

We would also note these rules could also have "retroactive effect" for a plan that originally did not fall within the definition of an IPP. This could result, for example, if a plan member commutes his or her benefits, dies or otherwise terminates membership with the result that the total number of members drops to less than four. Conversely, despite the fact that a plan may grow in size to cover more than three plan members, it will continue to be an IPP for purposes of the minimum payout rule.[8] This creates an unfair

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[3] Please refer to Appendix A for an excerpt from a submission made by the Tax Executives Institute to the British Columbia Government on the application of retroactive legislation.
[4] Regulation 8515 (4) of the Income Tax Act (the "Act").
[5] Regulation 8515(1) of the Act.
[6] Regulation 8515(7) of the Act.
[7] CRA Compliance Bulletin No. 5 (dated June 12, 2008) outlines the CRA's position that it will not register or will deregister an IPP that is established to accept a transfer of funds from a prior registered plan if it does not meet the "primary purpose test." This position is supported by the Federal Court of Appeal decisions in *Pension Plan for Presidents of Jordan Financial v. Canada (2007) FCA 263* and *Pension Plan for Presidents of 1346687 Ontario Inc. v. Canada (2007) FCA 262.*
[8] See the proposed definition of IPP in subsection 8300(1) of the Act.

result for all members, who are subject to more onerous rules than plan members who join a plan that is not considered an IPP.

(iii) The Proposals Can Create Financial Uncertainty and Hardship

The proposed minimum payout for IPPs is based on a formula where the actuarial liabilities in respect of the plan member are multiplied by a factor that is approximately 7.5% at age 72 and increases every year thereafter. Assuming the annual factor is higher than the annual rate of return earned on plan assets, those assets will decrease every year while the actual payout to the plan participant can vary significantly under the proposed formula. The minimum payout formula can therefore put the IPP in a deficit position, requiring the plan sponsor to make additional contributions to the IPP to meet pension solvency requirements, even though the plan was originally in a surplus position and has achieved the actuarially assumed rates of return.

This lack of certainty in terms of future plan funding requirements for the plan sponsor, and the level of payments that will be received by the plan member, runs counter to the underlying basis for having a defined benefit pension plan. As well, should the plan sponsor (which by definition will almost always be a small private corporation) not be able to meet its funding obligations in the future, this could result in the member and/or surviving spouse suffering financial difficulties at an advanced age.

It is somewhat ironic that, at a time when most pension regulators are concerned about shortfalls in pension funding and the Federal government has increased the pension surplus threshold for defined benefit RPPs[9], the minimum payment requirement could force out plan surpluses and create a funding deficit. As well, ongoing volatility in the stock markets substantiates the need for pension surpluses to protect plan sponsors and members against possible declines in the underlying investment portfolio.

(iv) The Proposals Increase the Cost of Administering an IPP

The proposals require the annual calculation of the RRIF minimum payout based on a determination of the actuarial liabilities of the IPP at the beginning of each year. The requirement to obtain an actuarial valuation every year will significantly increase the costs of administering an IPP and act as a disincentive to implementing these plans.

It is also worth noting that the penalty for failure to properly comply with this new rule is extremely onerous. The IPP will become a "revocable plan", and subject to deregistration by the CRA.[10]

(v) Rules Could Cause a Violation of Provincial Pension Regulations

It is our understanding that the RRIF minimum rules could result in IPPs not being in compliance with provincial regulations governing pension plans.

(vi) The RRIF Minimum Rules are Outdated

The RRIF minimum rules, which are the basis for these proposals, were last reviewed and updated in 1992, effective for 1993. At that time the Bank of Canada benchmark rate was in the range of 4-7%, and the average life expectancy for a Canadian male age 65 was approximately 16 years.[11] By 2011, the Bank of Canada benchmark rate has settled into a range of 1% and is not expected to approach the rates

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[9] 2010 Budget Amendments to paragraph 147.2(2)(d) of the Act.
[10] Proposed new Regulation 8503(26) and paragraph 147.1(11)(c) of the Act.
[11] Statistics Canada report released February 23, 2010.

experienced in the 1990's in the foreseeable future. At the same time, the life expectancy for a Canadian male age 65 has increased by at least two years.[12]

Over the past decade there has been significant commentary on how the RRIF minimum rules have become outdated and that the payout factors need to be adjusted downward to reflect changes in life expectancy and real returns on investments. To quote from one article on this subject:

> "To the RRIF holder, however, the minimum poses a threat. They could oblige the holder to run tax-deferred assets down too rapidly – exposing withdrawals and any returns from reinvestment to income taxes and benefit clawbacks – and reach advanced age with tax-deferred assets badly depleted. In 2008, this threat looms larger. Life expectancy is up since 1992 and real returns on investments are down. RRIF holders now face dramatic erosion in the purchasing power of tax-deferred savings in their later years. [13]

If the government decides to proceed with a minimum payout schedule, it appears to be inappropriate to use a formula that that has been almost universally criticized for not reflecting current investment and demographic trends.

c) *Comments Relating to the Past Service Funding Rules*

(i) The Current Rules Already Limit Past Service Funding

The current regulations governing defined benefit RPPs already impose limits on past service funding for high income earners with longer periods of service.[14] Appendix B sets out an example to demonstrate this point. Under these rules, a highly paid employee with continuous service from 1991 to 2011 would have a cumulative Past Service Pension Adjustment (PSPA) of $406,120. If that employee made the maximum RRSP contributions for each of those years, the RRSP would need to grow by over $100,000 (a compound rate of return of 3.12%) to permit the buy-back of service to 1991. If that person had no cumulative growth on such contributions (or did not contribute to an RRSP), there would only be sufficient room to satisfy 15 years of past service.

In other words, the plan member is already being required to give up growth in their RRSPs and other defined contribution plans to fully fund a past service event. These new rules will further penalize an employee that has taken the proper steps to save for retirement and managed to achieve superior investment performance.

(ii) The New Rules Have Discriminatory Application

As already discussed, two employees in very similar circumstances will be impacted very differently under these proposals. Using the example set out in Appendix B, assuming the pension plan meets the IPP definition, and that employee has accumulated more than $406,120 in his RRSP, those additional plan earnings must be transferred to the RPP to satisfy the past service funding requirement (up to the amount of $614,520, which is the cost of funding the past service event).

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[12] Ibid, for the period of 2005-2007.

[13] William A. Robson, "A Better Riff on Retirement: The Case for Lower Minimum Withdrawals from Registered Retirement Savings Plans", C.D Howe Institute, July 10, 2008. Reforms to the RRIF minimum payout formula have also been advocated by the Investment Funds Institute of Canada and the Canadian Association of Retired Persons.

[14] Regulation 8303 of the Act.

On the other hand, an employee participating in an RPP with four or more members, will generally not be subject to the new rules governing IPPs and therefore will not have to transfer any RRSP accumulations above the amount of $406,120 to qualify for full past service benefits, with the plan sponsor being able to contribute an additional $208,400 for past service funding.

It is also important to recognize that the value of an RRSP is not solely attributable to contributions by the plan holder based on his or her earned income, and accumulated income thereon. Funds could have been transferred into the RRSP on a rollover basis as a result of the death of the spouse or common law partner,[15] a transfer to a spouse or common law partner as a result of separation or divorce,[16] the contribution of a retiring allowance transfer on termination of employment,[17] or a permitted transfer from a foreign pension plan.[18] It is unclear from a policy reason why such amounts would need to be utilized by a plan member to fund a past service event.

(iii) The New Rules May Discourage Owners of Private Corporations from contributing to RRSPs

In the past, owners of private corporations have been counseled by their tax advisors to withdraw sufficient salary from their business to maximize their RRSP contributions. However, with the decline in the small business and general corporate tax rates, combined with the introduction of the eligible dividend rules, a number of tax advisors have suggested that it might be better for small business owners to take dividends in lieu of salary. By doing so, any retained profits will benefit from lower corporate tax rates as well as avoiding the payment of related payroll taxes. While this strategy may be justified from a tax perspective, it leaves the business owner's retirement funds at risk if the business subsequently experiences financial difficulties or fails. As well, the ability of small business owners to qualify for Canada Pension Plan benefits during retirement is negatively impacted as a result of this strategy.

These new proposals will force small business owners to investigate other strategies, such as the one discussed above, to save for retirement purposes. These strategies may result in small business owners being exposed to additional financial risks that may not be apparent or fully understood. This would seem to be an inappropriate result given the recent focus of the federal and provincial governments on encouraging greater participation in retirement savings programs.

(iv) Current Rules are Already More Prohibitive for IPP Funding and Accrual of Benefits

As previously noted, there are a number of rules governing "designated plans." These rules, for example, require the use of an unrealistically high valuation rate (7.5%) as well as an assumed retirement age of 65 in determining the required level of funding.[19]

In determining accruals under the plan, there is no concept of "final average earnings" as is generally the case for defined benefit plans. The rules prescribe an "updated career average" which provides a very different result than for "non-connected" plan members.[20] As well, the plan cannot assume earnings during a period of disability in determining the level of retirement benefits and indexing of benefits is restricted.

[15] Paragraph 60(l) of the Act.
[16] Paragraph 146(16)(b) of the Act.
[17] Paragraph 60(j.1) of the Act.
[18] Paragraph 60(j) of the Act.
[19] Subsection 8515(7) of the Act.
[20] Regulation 8504(1)(i) of the Act.

These designated plan rules highlight that these plans were already less advantageous than regular RPPs. The new rules governing past service contributions in combination with these existing rules will make IPPs even more unattractive to most small business owners.

(v) The Proposals Create Uncertainty and Other Issues

We have identified a number of issues with the proposed rules which need further consideration and clarification:

- The valuation of "designated savings arrangements" is to take place at the end of the immediately preceding calendar year that includes the past service event."[21] The rules do not contemplate what happens if the RRSP or other registered plans have an investment loss after the end of the calendar year and prior to the past service event.

- If the "designated savings arrangement" is a RRIF, most financial institutions will not allow the transfer without first disbursing the RRIF minimum for the year to the owner. This will result in a shortfall in the funds available to satisfy the PSPA.

- As previously noted, if a company adds members to the plan, future members will be caught by the new PSPA rules even though the plan, if newly created, would not be treated as an IPP.

5. Summary

For the reasons discussed above, CALU believes the proposed legislative response to concerns involving IPPs is too broad, creates significant inequities and will create administrative and compliance issues for plan sponsors, plan members and the CRA.

It is therefore our recommendation that the IPP legislation be delayed pending further consultation with interested parties. We are of the view that there are other legislative and administrative options that can be implemented to satisfy the concerns of Finance, while not discouraging small business owners from establishing defined benefit pension plans for themselves and their key employees.

Yours truly,

Susan St. Amand, CFP, CLU, CH.F.C., TEP
Chair, Conference for Advanced Life Underwriting

cc. Andrew Donelle

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[21] New subsection 8304(10) of the Act.

Appendix A

TEI Submission on Retroactivity of Proposed British Columbia Revision of Retail Sales Tax

On April 30, 2009, Tax Executives Institute submitted the following comments to the Honorable Colin Hansen, Minister of Finance for the Province of British Columbia, concerning the proposed retroactive amendment of the B.C. retail sales tax in respect of certain materials mailed into the province.

Background

TEI is the preeminent association of business tax executives. The Institute's more than 7,000 professionals manage the tax affairs of the 3,200 leading companies in Canada, the United States, Europe, and Asia and must contend daily with the planning and compliance aspects of business tax laws in Canada and other jurisdictions. TEI's first Canadian chapter was founded in Toronto more than a half century ago, and Canadians constitute 10% of the Institute's worldwide membership, with our Canadian members belonging to chapters in Toronto, Montreal, Calgary, and Vancouver. In addition, many of our non-Canadian members are employed by companies with substantial activities in Canada.

As a broad-based association of tax professionals, TEI is concerned with issues of tax policy and administration and is dedicated to working with government agencies in Canada, including the provinces, as well as in the United States and elsewhere, to reduce the costs and burdens of tax compliance and administration to our common benefit. We are convinced that the administration of the tax laws in accordance with the highest standards of professional competence and integrity, as well as an atmosphere of mutual trust and confidence between business and government, will promote the efficient and equitable operation of the tax system. In furtherance of this principle, TEI supports efforts to improve the tax laws and their administration at all levels of government. …

Analyzing Retroactive Legislation

For a tax system to be fair and perceived as being fair, taxpayers must be able to rely on the legislation and regulations in effect when business transactions take place, expenditures are incurred, and other taxable events occur. Therefore, except in extreme circumstances, tax legislation should be prospective.

Clearly, a government is free to change its administrative policy, but fairness demands that the change should only be prospective if it will have a significant negative financial effect on taxpayers. Although the government may possess the authority to change the tax laws retroactively, it is a power that should be exercised sparingly. In this instance, the government moved not to vindicate any core principles of law or public finance — to stanch abuse — but rather to overturn a longstanding and reasonable policy.

The principles governing the retroactivity issue were fully explored in a September 1995 report by the federal Department of Finance. In its Comprehensive Response of the Government of Canada to the Seventh Report of the Standing Committee on Public Accounts, the Department held open the possibility of retroactive legislation in response to adverse decisions by the Tax Court of Canada. Nevertheless, the Department acknowledged that "[t]ax policy considerations . . . dictate that retroactive tax changes remain exceptional [because] [t]ax certainty . . . requires that taxpayers be able to determine precisely their tax

liability."[1] This "is a fundamental principle of taxation."[2] In addition, the Department stated that "taxpayers should be able to expect stability and continuity in the tax rules [and] they should be able to expect certain tax results when they plan their investments on the basis of the rules as they know and understand them."[3]

Moving beyond these broad policy considerations, the Department of Finance identified several situations where retroactivity might be justified:

- Where the amendments reflect a long-standing, well-known interpretation of the law by the Department of National Revenue;
- Where the amendments reflect a policy that is clear from the relevant provisions that is well-known and understood by taxpayers;
- Where the amendments are intended to prevent a windfall benefit to certain taxpayers;
- Where the amendments are necessary to preserve the stability of the Government's revenue base; and
- Where the amendments are corrections of ambiguous or deficient provisions that were not in accordance with the object of the Act.[4]

Thus, the "fundamental legal principle" favours clarifying amendments that are "made public before their application."[5]

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[1] Session Paper 8512-351-79, September 1995, Comprehensive Response of the Government of Canada to the Seventh Report of the Standing Committee on Public Accounts at 15.
[2] Id.
[3] Id.
[4] Id. At 16-17.
[5] Id. At 15 (emphasis added).

Appendix B
Example of Current and Proposed Rules for Past Service Funding

Explanation of Charts

Chart 1 – Current PSPA

This chart calculates the current required PSPA for each year of past service for 1991 and later years. The total PSPA amounts to $406,120 for all years of past service from 1991 to 2010 inclusive. This chart also shows the cumulative PSPA each year since 1991.

Chart 2 – RRSP-Accumulation-BreakEven

Assuming that the individual made maximum RRSP contributions each year on a monthly basis, a rate of return equal to 3.12% per annum net of expenses is needed to accumulate to a balance of $406,120, the required PSPA or Qualifying Transfer amount from RRSP, as at the end of 2010. This reflects that when the current tax legislation was designed in the late 1980's, it already built in an assumed nominal growth of personal RRSP funds within the system in order for members to establish past service eligibility.

Chart 3 – RRSP-Accumulation-Return=0%

This chart shows that for individuals who realized 0% per annum return net of expenses, the accumulated amount in the RRSP is only $303,500. This would also apply to those individuals who never made any RRSP contributions for 1991 and later years. The individual will only have sufficient RRSP funds or unused room to satisfy 15 years of past service instead of the full 20 years – i.e. recognizing past service years 1991 to 2005 would require $294,270 be transferred from the RRSP... This illustrates the fact that any taxpayer eligible for past service is already limited by the existing system if he or she did not make any RRSP contributions or did not realize a reasonable rate of return on RRSP investments.

Chart 4 – No IPP-Funding-Age 55

This chart illustrates that for a 55-year old at maximum income with full past service eligibility going back to 1991, the past service actuarial liability on the maximum funding basis as at January 1, 2011, is $614,520. Under the pre-budget existing IPP rules, the employer would be eligible to make a past service contribution of $208,400 ($614,520 less qualifying transfer of $406,120) to cover the plan deficit. If that individual accumulated $614,520 of personal RRSP funds (equal to a 7.2% per annum of return net of expenses), the proposed IPP past service rule would require the full transfer of this amount and the employer would not be eligible to make any IPP past service contributions. For younger ages, the rate of return that would result in no IPP past service funding would be lower, and vice versa.

Chart 1 – Current PSPA

							ANNUAL				
	PENSIONABLE	SERVICE	ANNUALIZED	EXCLUDED EARNINGS		ADJUSTED	BENEFIT	MAXIMUM	BE	PSPA	Cumulative
YEAR	EARNINGS	(MONTHS)	EARNINGS	From	To	EARNINGS	ACCRUAL	ACCRUAL			From 1991
1991	150,000.00	12.0000	150,000.00	69,444.00	86,111.00	133,333.00	2,666.66	1,388.88	1,388.88	11,500	11,500
1992	150,000.00	12.0000	150,000.00	69,444.00	86,111.00	133,333.00	2,666.66	1,388.88	1,388.88	11,500	23,000
1993	150,000.00	12.0000	150,000.00	75,000.00	86,111.00	138,889.00	2,777.78	1,500.00	1,500.00	12,500	35,500
1994	150,000.00	12.0000	150,000.00	80,556.00	86,111.00	144,445.00	2,888.90	1,611.12	1,611.12	13,500	49,000
1995	150,000.00	12.0000	150,000.00	n/a	n/a	150,000.00	3,000.00	2,552.22	2,552.22	21,970	70,970
1996	150,000.00	12.0000	150,000.00	n/a	n/a	150,000.00	3,000.00	2,552.22	2,552.22	21,970	92,940
1997	150,000.00	12.0000	150,000.00	n/a	n/a	150,000.00	3,000.00	2,552.22	2,552.22	22,370	115,310
1998	150,000.00	12.0000	150,000.00	n/a	n/a	150,000.00	3,000.00	2,552.22	2,552.22	22,370	137,680
1999	150,000.00	12.0000	150,000.00	n/a	n/a	150,000.00	3,000.00	2,552.22	2,552.22	22,370	160,050
2000	150,000.00	12.0000	150,000.00	n/a	n/a	150,000.00	3,000.00	2,552.22	2,552.22	22,370	182,420
2001	150,000.00	12.0000	150,000.00	n/a	n/a	150,000.00	3,000.00	2,552.22	2,552.22	22,370	204,790
2002	150,000.00	12.0000	150,000.00	n/a	n/a	150,000.00	3,000.00	2,552.22	2,552.22	22,370	227,160
2003	150,000.00	12.0000	150,000.00	n/a	n/a	150,000.00	3,000.00	2,552.22	2,552.22	22,370	249,530
2004	150,000.00	12.0000	150,000.00	n/a	n/a	150,000.00	3,000.00	2,552.22	2,552.22	22,370	271,900
2005	150,000.00	12.0000	150,000.00	n/a	n/a	150,000.00	3,000.00	2,552.22	2,552.22	22,370	294,270
2006	150,000.00	12.0000	150,000.00	n/a	n/a	150,000.00	3,000.00	2,552.22	2,552.22	22,370	316,640
2007	150,000.00	12.0000	150,000.00	n/a	n/a	150,000.00	3,000.00	2,552.22	2,552.22	22,370	339,010
2008	150,000.00	12.0000	150,000.00	n/a	n/a	150,000.00	3,000.00	2,552.22	2,552.22	22,370	361,380
2009	150,000.00	12.0000	150,000.00	n/a	n/a	150,000.00	3,000.00	2,552.22	2,552.22	22,370	383,750
2010	150,000.00	12.0000	150,000.00	n/a	n/a	150,000.00	3,000.00	2,552.22	2,552.22	22,370	406,120
										406,120	
Benefit R	2.00%										

Chart 2 – RRSP-Accumulation-BreakEven

RRSP Investment Return (net of expenses):			3.12%	
	Balance		Investment	Balance
Year	Beg. of Year	Contribution	Income	End of Year
1991	0	11,500	178	11,678
1992	11,678	11,500	543	23,721
1993	23,721	12,500	934	37,155
1994	37,155	13,500	1,369	52,024
1995	52,024	13,500	1,833	67,357
1996	67,357	13,500	2,312	83,169
1997	83,169	13,500	2,805	99,474
1998	99,474	13,500	3,314	116,288
1999	116,288	13,500	3,839	133,627
2000	133,627	13,500	4,380	151,507
2001	151,507	13,500	4,938	169,945
2002	169,945	13,500	5,514	188,959
2003	188,959	14,500	6,123	209,582
2004	209,582	15,500	6,782	231,864
2005	231,864	16,500	7,493	255,857
2006	255,857	18,000	8,265	282,122
2007	282,122	19,000	9,101	310,223
2008	310,223	20,000	9,994	340,217
2009	340,217	21,000	10,945	372,162
2010	372,162	22,000	11,958	406,120

Chart 3 – RRSP-Accumulation-Return=0%

RRSP Investment Return (net of expenses):			0.00%	
	Balance		Investment	Balance
Year	Beg. of Year	Contribution	Income	End of Year
1991	0	11,500	0	11,500
1992	11,500	11,500	0	23,000
1993	23,000	12,500	0	35,500
1994	35,500	13,500	0	49,000
1995	49,000	13,500	0	62,500
1996	62,500	13,500	0	76,000
1997	76,000	13,500	0	89,500
1998	89,500	13,500	0	103,000
1999	103,000	13,500	0	116,500
2000	116,500	13,500	0	130,000
2001	130,000	13,500	0	143,500
2002	143,500	13,500	0	157,000
2003	157,000	14,500	0	171,500
2004	171,500	15,500	0	187,000
2005	187,000	16,500	0	203,500
2006	203,500	18,000	0	221,500
2007	221,500	19,000	0	240,500
2008	240,500	20,000	0	260,500
2009	260,500	21,000	0	281,500
2010	281,500	22,000	0	303,500

Chart 4 – No IPP-Funding-Age 55

RRSP Investment Return (net of expenses):			7.20%	
	Balance		Investment	Balance
Year	Beg. of Year	Contribution	Income	End of Year
1991	0	11,500	407	11,907
1992	11,907	11,500	1,264	24,671
1993	24,671	12,500	2,218	39,389
1994	39,389	13,500	3,313	56,202
1995	56,202	13,500	4,524	74,226
1996	74,226	13,500	5,821	93,547
1997	93,547	13,500	7,212	114,259
1998	114,259	13,500	8,703	136,462
1999	136,462	13,500	10,302	160,264
2000	160,264	13,500	12,015	185,779
2001	185,779	13,500	13,852	213,131
2002	213,131	13,500	15,822	242,453
2003	242,453	14,500	17,968	274,921
2004	274,921	15,500	20,341	310,762
2005	310,762	16,500	22,956	350,218
2006	350,218	18,000	25,850	394,068
2007	394,068	19,000	29,042	442,110
2008	442,110	20,000	32,537	494,647
2009	494,647	21,000	36,354	552,001
2010	552,001	22,000	40,519	614,520