

Client Advisory

Highlights of the 2023 Federal budget

March 29, 2023

Summary

The 2023 Federal budget was tabled on March 28, 2023. It contains several initiatives which will be of interest to employers, plan sponsors, and plan administrators with respect to their pension and benefit plans. These include announcements with respect to variable payment life annuities, changes to retirement compensation arrangements, the Canadian Dental Care Plan, and leaves of absence for federally regulated employees.

Introduction

On March 28, 2023, the Honourable Chrystia Freeland, the federal Minister of Finance, presented [Budget 2023](#). The following budget proposals will be of interest to employers, and sponsors of group benefit and pension plans.

Measures affecting retirement and pensions Retirement Compensation Arrangements (RCAs)

Budget 2023 announces changes to the way that RCA refundable tax is assessed so that fees paid for a letter of credit or surety bond to provide security for supplemental retirement benefits will no longer be considered contributions to an RCA. The provisions of the *Income Tax Act* (ITA) regarding the treatment of RCAs do not specifically state that fees paid for a security instrument like a letter of credit or surety bond constitute a contribution to an RCA; however, the Canada Revenue Agency (CRA) historically took the position that the fees were subject to the refundable tax even though there were no assets set aside in a trust. This position meant that when an employer paid a fee each year to establish or renew the security instrument, it was also required to remit an equal amount to the CRA as RCA refundable tax. According to Budget 2023, the ITA will be amended to make it clear that this type of fee will not attract the 50% refundable tax. This change applies to any fees paid on or after Budget Day.

The refundable tax is designed so that it is paid back to the RCA trust at the rate of \$.50 for every dollar of supplemental benefit paid out of the trust. Under a typical RCA that is secured but not funded, the employer pays the supplemental benefits directly from general revenues and, as a result, those payments do not trigger a return of any of the refundable tax, which means that the refundable tax accumulates. The changes announced in Budget 2023 will also introduce a mechanism to trigger refunds of refundable tax accumulated before Budget Day for benefits paid outside the RCA trust by the employer. Starting with benefit payments after 2023, payment of the supplemental retirement benefits by the employer will trigger a return of the refundable tax at the same rate of \$.50 for every dollar of benefits paid by the employer. This will allow employers to reclaim the refundable tax that has been accumulating each year since the secured RCA was established until the refundable tax account is depleted. Currently, an annual return needs to be filed to trigger the refund, so we expect that this would mean that refunds will not start to be paid until 2025 unless the supporting legislation provides otherwise.

This measure will be welcome news to sponsors of supplemental employee retirement plans (SERPs) that are secured by letters of credit and/or surety bonds. It may also make such security instruments more attractive to a SERP sponsor as an alternative to accumulating assets in a trust fund.

Sponsors of RCAs should review their SERP plan and trust documentation to determine whether any amendments will be required to take advantage of this measure.

PBSA and PRPPA amendments

Budget 2023 notes that the government proposes amending the *Pension Benefits Standards Act, 1985* and the *Pooled Registered Pension Plans Act* to add frameworks for variable payment life annuities. There will also be technical amendments. No further details of these amendments are provided in the Budget.

Crypto disclosures

Budget 2023 also announced that the government will require federally regulated pension funds to disclose their crypto-asset exposures to the Office of the Superintendent of Financial Institutions. To help ensure Canadians are aware of their pension plan's potential exposure to crypto-assets, the government will also work with provinces and territories on required disclosures of crypto-asset or related activities by Canada's largest pension plans. Further details and other possible proposals to protect Canadians from the risks of crypto-asset markets will be provided in the 2023 fall economic and fiscal update.

Other items of interest

Budget 2023 announced that financial institutions can offer the Tax-Free First Home Savings Account as of April 1, 2023. This account is a new registered plan to give first-time home buyers the ability to save up to \$40,000 tax free.

Pension funds will be eligible for the Clean Electricity Investment Tax Credit.

Measures affecting group benefit plans

Canadian Dental Care Plan

The federal government proposes to implement the Canadian Dental Care Plan (Plan) to replace the Canada Dental Benefit that was introduced in 2022. Currently, the Canada Dental Benefit provides a direct payment to eligible families whose annual income is less than \$90,000. The payment is for dental care expenses relating to children under 12 years of age who are not covered under a dental plan and do not have access to dental benefits through a parent's employer. The payment is up to \$650 per year per eligible child for two years.

The Plan will provide dental coverage for uninsured Canadians with annual family income of less than \$90,000, with no co-pays for those with family incomes under \$70,000. The Plan would begin providing coverage by the end of 2023 and would be administered by Health Canada, with support from a third party benefits administrator. Details on eligible coverage will be released later this year.

To ensure that only those without access to private insurance benefit from the Canadian Dental Care Plan, employers and employer pension plans would be required to report any dental coverage offered to their employees and plan members through the T4 or T4A. Health Canada could also collect and use the Social Insurance Number of a person who applies for benefits under the Plan, for purposes of plan administration and enforcement.

The implications of the implementation of the Plan for group dental plans will need to be assessed once additional details are available.

Expanding access to dental care and investing in better dental care data

The government also intends to invest in additional measures to address oral health gaps targeted to vulnerable populations and reduce barriers to accessing care as well as collect data on oral health and access to dental care in Canada.

New leave for pregnancy loss

Amendments to the *Canada Labour Code* (which is applicable only to workers in [federally regulated industries and workplaces](#)) would create a new stand-alone leave for such workers who experience a pregnancy loss. Budget 2023 notes that this new leave will also apply to parents planning to have a child through adoption or surrogacy.

Currently, the *Canada Labour Code* provides for 17 weeks of unpaid maternity leave when a pregnancy ends in a miscarriage or stillbirth after the 19th week.

Improving access to leave related to the death or disappearance of a child

Other amendments to the *Canada Labour Code* (again applicable only to workers in [federally regulated industries and workplaces](#)) will improve eligibility for the leave related to the death or disappearance of a child under age 25. Further details must still be provided.

Currently, the *Canada Labour Code* provides for 104 weeks of unpaid leave to an eligible person who is either a parent of the child, has custody of the child, is the guardian of the child, is a person

who has decision-making responsibility with respect to the child, or is the person with whom the child is placed for purposes of adoption.

For more information

This Advisory is not intended to constitute or serve as a substitute for legal, accounting, actuarial or other professional advice. For information on how this issue may affect your organization, please contact your WTW consultant, or:

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