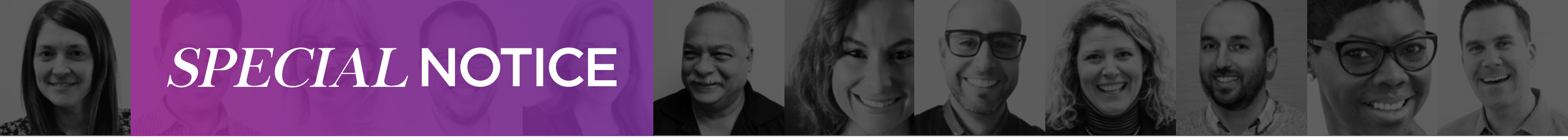
March 20, 2019

2019 Federal Budget: Investments Across Generations

The ***2019 Federal Budget***, *Investing in the Middle Class* (Budget), was tabled by Finance Minister Bill Morneau on March 19, 2019. Key announcements of interest to employers and benefits plan sponsors, include:

- Increased retirement security and flexibility for Canadian workers;
- Changes to improve participation in the Canada Pension Plan;
- Continued progress towards a national pharmacare strategy;
- Measures to address major health care challenges;
- Changes to tax measures affecting health care;
- Increased support for persons with disabilities; and
- Other measures related to privacy, parental leave and employee stock options.

This *Special Notice* provides a summary of key Budget measures and their impact on employers and plan sponsors.



Securing Pensions and Retirement Income for Canadians

The Budget addresses concerns about the security of workplace pensions and introduces measures to increase flexibility for retirement income, including a new deferred life annuity option for members of defined contribution (DC) pension plans and other capital accumulation plans.

Changes to Permitted Types of Annuities

The Budget introduces two new types of annuities for certain registered plans, designed to provide greater flexibility for retirement savings. The new annuities are:

- Advanced life deferred annuities (ALDAs), a life annuity where income can be deferred until the end of the year in which the annuitant reaches age 85 and will be permitted under a registered retirement savings plan (RRSP), registered retirement income fund (RRIF), deferred profit-sharing plan (DPSP), pooled registered pension plan (PRPP) and defined contribution registered pension plan (RPP). Canadians may use up to $150,000 (indexed to inflation after 2020) to purchase this new type of annuity, which allows a significantly longer deferral than other types of life annuity that start paying income by the end of the year of reaching age 71; and
- Variable payment life annuities, which will be permitted under a PRPP and defined contribution RPP and provided to plan members directly from the plan with payments varying to reflect the investment performance and mortality experience of the annuitant pool.

The measures will apply to the 2020 and subsequent taxation years.

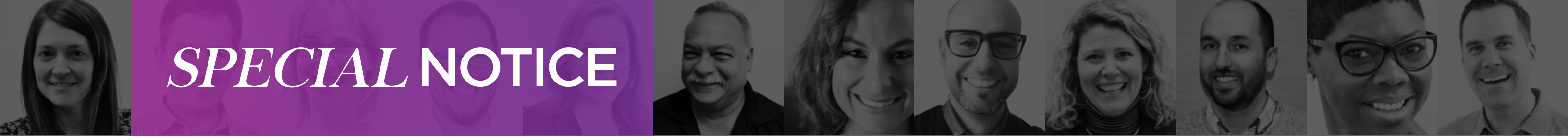
Eckler's view:

This is a positive development for both sponsors and members of DC and other capital accumulation plans, who have been looking for additional options in the decumulation phase that will help to ensure that plan members won't outlive their savings. The addition of the new annuity options are useful income vehicles for Canadians, but they require the government to amend federal pension benefits legislation.

Advanced life deferred annuities will help to mitigate longevity risk for plan members and allow them to have greater certainty over how they draw down their retirement assets. Not only are these a positive for plan sponsors and plan members, but the Canadian economy may also benefit as with greater confidence in later-in-life income, retirees will be more inclined to spend their savings.

Once the legislation is amended, sponsors of federally regulated plans will have a choice if they want to offer variable payment annuities from their DC pension plans – something only a limited number of plans have been able to offer in the past.

The introduction of these annuities to Canadian plan sponsors not only means some new decisions will need to be made in plan design (whether to offer these or not), but also in how plan sponsors support plan members in making retirement income decisions. It will likely lead to an influx in products and solutions from various industry providers, such as insurance companies and investment managers, an area of the market that has been lacking.



Contributions to a Specified Multi-Employer Plan for Older Members

In order to bring taxation rules regarding Specified Multi-Employer Plans (SMEPs) in line with pension taxation rules for other registered pension plans, the Budget proposes to amend tax rules to prohibit contributions to a SMEP in respect of a member after the end of the year the member reaches age 71, and to a defined benefit provision of a SMEP if the member is receiving a pension from the plan (except under a qualifying phased retirement program). The change will ensure that employers do not make pension contributions on behalf of older SMEP plan members who cannot benefit from the contributions. The measures will apply in respect of contributions made pursuant to collective bargaining agreements entered after 2019 only.

Eckler's view:

Although this change may address questions and concerns from the impacted members, the requirement may place an administrative burden on the plan. This is due to the arms-length relationship between the employers and administrators of these plans, which can make obtaining the required information a potential challenge. Funded positions of plans might also be affected, since many plans currently continue contributions for members beyond age 71 which enhances the health of the plan in aggregate. Finally, some employers might need to enhance their payroll systems to redirect pension contributions to cash wages to ensure that they comply with the negotiated wage package.

Changes to Home Buyers' Plan Withdrawal Limits

The Budget proposes amendments to the Home Buyers' Plan (HBP), which is designed to help first-time home buyers finance a down payment by allowing them to withdraw from a registered retirement savings plan (RRSP) without being subject to tax on the RRSP withdrawal. The proposed amendments will increase the withdrawal limit to $35,000 from $25,000, allowing a couple to withdraw a combined $70,000 for a down payment.

The Budget will also extend the same increase to individuals who qualify for the disability tax credit who require accessible homes, even if they are not first-time home buyers. The increase will apply to 2019 and all subsequent taxation years in respect of withdrawals made after the release of the Budget on March 19, 2019.

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Additionally, the Budget will extend the withdrawal rights to homeowners in the midst of a marriage or relationship breakdown. This right will include individuals who do not qualify as first-time home buyers. Subject to some restrictions, the withdrawal will be available to individuals who live separate and apart from their spouse or common-law partner at the time of the withdrawal, who began to live separate and apart in the year in which the withdrawal is made – or any time in the preceding four years. The amendment is intended to help Canadians maintain home ownership in the event of a relationship breakdown.

Eckler's view:

The increase in the withdrawal limit to $35,000, which was $25,000 since the 2009 Federal Budget, is a welcomed addition as it helps to reflect the increasing cost of housing in Canada. The other changes to the HBP provides flexibility for individuals with a disability or those going through a relationship breakdown.

Making Sure Eligible Canadians Receive their Canada Pension Plan Benefits

Some eligible Canadians miss out on receiving their Canada Pension Plan (CPP) income by failing to apply on time or at all. The Budget proposes to proactively enroll CPP contributors who are 70 years old or older in 2020 who have yet to receive their retirement pension.

Canadians who prefer to opt out of receiving CPP to avoid reducing federal and provincial income-tested benefits will be allowed to do so for up to a year, an increase from the current opt-out period of six months.

The set-up costs of proactive enrolment – estimated at $9.6 million – will be sourced from the Canada Pension Plan Account.

Enhanced Guaranteed Income Supplement Exemption

Beginning with the 2020-2021 benefit year, the Budget proposes to enhance the Guaranteed Income Supplement (GIS) earnings exemption. The GIS earnings exemption currently allows low-income seniors and their spouses to each earn up to $3,500 per year in employment income without triggering a reduction in GIS or Allowance benefits. The enhancement in the Budget would:

- Extend eligibility for the GIS earnings exemption to include self-employment income, as well as employment income;
- Increase the amount of the full exemption from $3,500 to $5,000 per year for each GIS or Allowance recipient, as well as their spouse; and
- Introduce a partial exemption of 50%, to apply on up to $10,000 of income beyond the new $5,000 threshold, thereby providing a full or partial exemption on a total of up to $15,000 of annual employment and self-employment income for each GIS or Allowance recipient, as well as their spouse.

Protecting Canadians' Pensions on Bankruptcy

Concerns have been raised in recent years about the security of workplace pensions when an employer goes bankrupt. The government undertook consultations with workers, pensioners, companies and the public in 2018, and will propose changes to the *Companies' Creditors Arrangement Act*, the *Bankruptcy and Insolvency Act*, the *Canada Business Corporations Act* and the *Pension Benefits Standards Act*, 1985 to better protect workplace pensions in the event of corporate insolvency. Measures designed to protect retirement pensions include:

- Amendments to make insolvency proceedings fairer, more transparent and more accessible for plan members, including empowering the courts to review payments made to executives prior to bankruptcy;
- Requiring higher standards of oversight of corporate behaviour from publicly traded, federally incorporated firms, including disclosure of policies related to workers, pensioners and executive compensation;
- Protecting Canadian employee pensions by clarifying in federal pension law that a plan must still provide the same pension benefits as when it was ongoing even after it is terminated; and
- Allowing defined benefit plans to fully transfer their pension obligations to a regulated life insurance company through the purchase of annuities, to improve plan sustainability and to better protect retirees' pensions from the risk of employer insolvency.

Modernizing the Unclaimed Assets Framework

The Budget proposes to introduce amendments to the *Bank Act*, the *Bank of Canada Act*, the *Trust and Loan Companies Act* and the *Pension Benefits Standards Act, 1985* to expand the scope of the unclaimed assets framework to include unclaimed pension balances from terminated federally regulated pension plans. The framework is intended to protect and help reunite Canadians with lost or forgotten entitlements.

Eckler's view:

This option would allow administrative closure for terminated federally regulated pension plans unable to locate certain members.

Changes to Pensionable Service Under an Individual Pension Plan

The Budget proposes to prohibit Individual Pension Plans (IPPs) from providing retirement benefits for past years of employment that were also pensionable service under a defined benefit plan of an employer other than the IPP's participating employer or a predecessor employer.

Any assets from a former employer related to benefits provided in respect of prohibited service will be required to be included in the income of the member for income tax purposes. This measure is intended to discourage the use of an IPP sponsored by a newly incorporated private corporation controlled by an individual who has terminated employment with a former employer, as a way to circumvent the prescribed transfer limits for the commuted value paid from the former employer's plan. The new rules will apply to pensionable service credited under an IPP on or after the release of the Budget on March 19, 2019.

National Pharmacare

Following the focus in the ***2018 Federal Budget***, the Budget continues to progress towards a national pharmacare strategy. The government's focus is on two key challenges:

- Lowering the cost of drugs for all Canadians; and
- Expanding coverage so all Canadians have access to affordable medicine.

The Budget notes that brand-name medicine costs in Canada can be 20% higher compared to other advanced countries. Additionally, many prescription drugs in Canada now cost more than $10,000 per year, per patient. To ensure access to affordable drugs for all Canadians, the Budget proposes the following:

Creation of Canadian Drug Agency: The Budget proposes a new national drug agency that will build on existing provincial and territorial successes and act as a single evaluator and negotiator for drug prices in Canada. It is expected it could help to lower total drug spend in Canada by $3 billion annually within 10 years. The Canadian Drug Agency would:

- Create a coordinated approach to assessing effectiveness of new prescription drugs;
- Negotiate drug prices for all Canadian plans, public and private; and
- Recommend which drugs represent the best value-for-money for Canadians, and in cooperation with provinces, territories and other partners, identify which drugs could ultimately form the basis for a future national formulary.

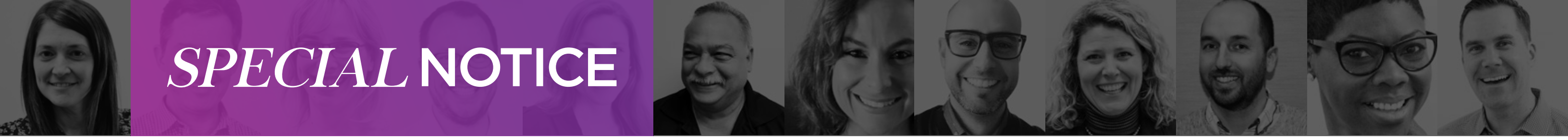
Introduction of a National Formulary: Part of the Canadian Drug Agency's work would be to take steps toward the development of a national formulary (a comprehensive, evidence-based list of prescription drugs). The national formulary would help develop a basis for a consistent approach to formulary listing and patient access across the country. In addition, the Budget proposes to provide Health Canada with $35 million over 4 years, starting in 2019-20, to establish a Canadian Drug Agency Transition Office to support the development of the national formulary.

National Strategy for High Cost Drugs for Rare Diseases: The Budget notes that the list prices for high cost drugs for rare diseases (i.e. life-threatening, debilitating or serious, and chronic conditions affecting a small number of patients) often exceed $100,000 per patient each year. Additionally, as new therapies enter the market, worldwide sales of high cost drugs for rare diseases are forecast to grow at twice the rate of other drugs. The Budget proposes to invest up to $1 billion over two years, starting in 2022-23, with up to $500 million per year ongoing, to help Canadians with rare diseases access the drugs they need.

Eckler's view:

Any success the Canadian Drug Agency has in reducing drug costs across the country will have a trickle-down impact to private plan sponsors. At this point, with no projected drug plan price reductions or timing of such negotiations, it's difficult to estimate the possible extent of savings. Similarly, the strategy for addressing high cost drugs is expected to eventually benefit private plan sponsors as well as public drug plans, but not expected to materialize for 3 to 4 more years.

The continued progress towards a national pharmacare strategy will help enhance coverage options for Canadians and could have significant cost implications for employers offering prescription drug benefits. The extent of the impact will depend on the size and scope of the formulary, the coverage levels and maximums, and whether the public program will be the first or the second payer of drug costs for eligible employees. The Budget gives no indication of a timeframe for implementation of a national pharmacare program, which offers no significant difference from the position taken in the 2018 Budget.



Addressing Major Health Care Challenges

The Budget contains a number of measures to address major health care challenges for Canadians, including:

Enhancing the Federal Response to the Opioid Crisis in Canada

With the opioid crisis being Canada's most significant public health crisis in recent years, the Government has funded over $350 million since 2017 toward a comprehensive public health emergency response to the crisis. The Budget proposes to provide additional funding of $30.5 million over 5 years, starting in 2019-20, with $1 million in ongoing funding to address the following:

- Expanding access to a safe supply of prescription opioids;
- Protecting Canadians from problematic opioid use; and
- Better access to overdose response training.

Expanding Health-Related Tax Relief

The Budget proposes to expand health-related tax relief under the GST/HST system to better meet the health care needs of Canadians, effective March 20, 2019. These include:

Human Ova and In Vitro Embryos: The Budget provides GST/HST relief for Canadians experiencing infertility, as well as single individuals and same-sex couples who are turning to assisted human reproduction to help build their families, by relieving human ova and in vitro embryos of the GST/HST. Currently, only human sperm is relieved of the GST/HST.

Multidisciplinary Health Care Services: The Budget provides for an expansion of the list of GST/HST-exempt health care services to specifically include a multidisciplinary health care service (e.g. when a physician, occupational therapist and physiotherapist combine their expertise and work together to provide a rehab service).

Foot Care Devices Supplied on the Order of a Podiatrist or Chiropodist: The Budget proposes allowing the purchase of certain foot care devices to be relieved of the GST/HST on the written order of licenced podiatrists and chiropodists. This proposal reflects the involvement of these health care professionals in the treatment of foot problems.

Cannabis and the Medical Expense Tax Credit: For 2019, the medical expense tax credit is available for qualifying medical expenses in excess of the lesser of $2,352 and 3% of the individual's net income. Cannabis products may be eligible for the medical expense tax credit if they are purchased for a patient for medical purposes in accordance with the Access to Cannabis for Medical Purposes Regulations, under the *Controlled Drugs and Substance Act*. However, since cannabis is subject to the Cannabis Regulation as of October 17, 2018, eligible expenses for medical expense tax credit will expand to include other classes of cannabis products (purchased for medical purposes) once they become permitted for legal sale under the *Cannabis Act*.

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The Budget proposes to amend the *Income Tax Act* to reflect the current regulations for accessing cannabis for medical purposes.

Eckler's view:

These changes will lessen the burden on individuals and level the playing field to ensure that beneficiaries with unique circumstances are not subject to adverse tax conditions. There is no significant impact expected on private plans.

Previously Announced Measures and Other Measures of Interest

The Budget contains a number of other measures and updates on previously announced measures that may be of interest, including:

- Confirmation that work continues on the income tax measures announced in Budget 2018 to facilitate the conversion of Health and Welfare Trusts to Employee Life and Health Trusts;
- Funding proposed for the Office of the Privacy Commissioner to enhance the Office's capacity, including its ability to engage with Canadian individuals and businesses, address complaints and respond to privacy issues as they occur; and
- As first proposed in the 2018 Budget and ***confirmed*** in September 2018, adding additional weeks of EI parental benefits when parents share parental leave starting March 17, 2019, three months earlier than originally planned.

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