Special Notice

April 22, 2021

2021 Federal Budget: Government lays out road to recovery

The 2021 Federal Budget, *"A Recovery Plan for Jobs, Growth, and Resilience"* (Budget 2021) was tabled by Finance Minister Chrystia Freeland on April 19, 2021. Due to the COVID-19 pandemic, Budget 2021 is the first full budget from the government since 2019.

Budget 2021 places an emphasis on relief measures to combat the ongoing financial and health impacts of the pandemic and stimulate the economy. Measures include investments in health care, job creation, child care, employment insurance, and disability benefits. It also includes measures related to pensions and benefits that may be of interest to plan sponsors and members. This *Special Notice* provides a summary of the key measures with potential impact on pension and benefit plans.

Pensions and income security measures for Canadians

Budget 2021 proposes measures for seniors eligible for the Old Age Security benefit, remedies provisions in the *Income Tax Act* related to contribution errors in defined contribution pension plans, and confirms the next steps related to creating a framework for federally regulated negotiated contribution pension plans.

The Budget does not contain additional information related to temporary solvency relief provisions or a review of the broader funding framework for federally regulated pension plans, nor provisions related to variable payment life annuities (VPLAs), on which the Department of Finance issued a consultation paper in late 2020.

Increasing Old Age Security for Canadians 75 and over

Budget 2021 commits the government to increase Old Age Security (OAS) benefits for seniors age 75 and older by providing a one-time payment of $500 in August 2021 to OAS pensioners who will be 75 or over as of June 2022. It also proposes further legislation to increase regular OAS payments, for pensioners 75 and over, by 10 percent on an ongoing basis as of July 2022.

Impact:

These measures would increase OAS benefits for approximately 3.3 million seniors and provide additional benefits of up to $766 to eligible seniors in the first year and indexed to inflation going forward.

Fixing contribution errors in defined contribution pension plans

Budget 2021 proposes to provide increased flexibility to administrators of defined contribution (DC) pension plans to correct potential under- and over-contributions to such pension plans.

Currently, the *Income Tax Act* does not permit DC plan administrators to accept retroactive contributions to employee accounts to correct under-contributions in prior taxation years.

The proposed changes would permit plan members and administrators to correct contribution errors by adding contributions to an employee's account under a DC plan to compensate for an under-contribution error made in any of the preceding five years, subject to a dollar limit.

The Budget also proposes amendments allowing plan administrators to correct for pension over-contribution errors in respect of an employee for any of the five years prior to the year in which the excess amount is refunded to either the employee or employer, depending on who made the contribution.

Currently, corrections related to over- and under-contributions require employers to file amended T4 slips for prior years. The proposed amendments will simplify reporting requirements by introducing a prescribed form for plan administrators. The measures would apply in respect of additional contributions made, and amounts of over-contributions refunded, in the 2021 and subsequent taxation years.

Impact:

The proposed measures are welcome and would simplify the process for rectifying contribution errors for both plan administrators and plan members alike. Plan members will need to be aware that additional contributions to correct for under-contributions could reduce registered retirement savings plan (RRSP) contribution room for the taxation year following the year in which the retroactive contribution is made. The reduction in RRSP contribution room could potentially result in negative RRSP room. However, this would only impact the employee's RRSP contributions in future years and would not require reassessments of RRSP deductions claimed on the prior year tax returns. Similarly, refunds of over-contributions would generally restore RRSP contribution room for the taxation year in which the refund is made.

Revised framework for negotiated contribution pension plans

The Budget proposes to introduce long-awaited amendments to the Pension Benefits Standards Act, 1985 (PBSA), to establish a revised framework for multi-employer negotiated contribution pension plans. The government has promised measures to strengthen plan governance, transparency, and the sustainability of benefits.

Impact:

Plan administrators and stakeholders have been anticipating promised amendments designed to revise the framework for federally regulated multi-employer negotiated contribution pension plans [multi-employer pension plans that have a defined benefit provision and in which participating employers' contributions are defined by a collective agreement, statute or regulation]. The amendments are expected to remove solvency funding requirements for these plans, similar to the trend in funding requirement changes applicable to multi-employer pension plans in most provincial jurisdictions. It appears that the revised framework will also introduce changes to plan governance and membership communication requirements for these plans. Further details are expected to be provided in proposed amendments to the PBSA and its Regulations.

Modernizing the federal unclaimed assets regime

Building on proposals in the 2019 Federal Budget to expand the scope of the unclaimed assets framework to include unclaimed pension balances from terminated federally regulated pension plans, Budget 2021 proposes further changes to modernize the federal unclaimed assets regime by increasing the information available and making use of electronic communication to match Canadians with their unclaimed assets. Budget 2021 also recommends expanding the scope of the regime to include unclaimed balances from terminated federally regulated pension plans by amending the PBSA.

Impact:

The amendments offer plan administrators and members additional tools that will allow administrative closure for federally regulated pension plans unable to locate certain members. The measures will offer plan administrators additional relief from the administrative burden of tracking down members and determining what to do with unclaimed assets. The measures do not address the growing challenge of locating terminated members in ongoing plans, nor lost members in pension plans outside the federal jurisdiction.

Benefits and healthcare

Budget 2021 mirrors the focus of many recent provincial budgets, with an emphasis on health and benefit measures designed to provide relief for Canadians affected by the ongoing COVID-19 pandemic. Measures of interest include further progress toward a national pharmacare strategy, measures to combat the opioid and mental health crises, and support for working Canadians through improved benefit measures related to Employment Insurance (EI) and disability benefits.

Extending employment insurance sickness benefits to better support Canadians suffering from illness or injury

Budget 2021 proposes funding of $3.0 billion over five years, starting in 2021–22, and $966.9 million per year ongoing to enhance the maximum payment period for sickness benefits from 15 to 26 weeks. It also proposes to make amendments to the *Employment Insurance Act,* as well as corresponding changes to the *Canada Labour Code* to ensure that workers in federally regulated industries have the job protection they need while receiving EI sickness benefits. The extension would provide employees with additional time and flexibility to recover and return to work.

Impact:

Plan sponsors who currently provide a disability program that is integrated with the EI disability plan will be positively impacted by this proposal as the public plan picks up a greater portion of the total benefit payments. However, those plan sponsors providing a comparable disability program and taking advantage of any EI premium reductions will potentially have to increase their maximum period for sickness benefits up to 26 weeks, depending on the design of their STD/LTD programs. Once the regulations are known, plan sponsors are encouraged to review the designs of their disability program holistically to ensure compliance.

National universal pharmacare, funding for high-cost drugs, and life-saving drug enhancements

The government continues to move forward with its announced plan to provide ongoing funding of $500 million toward initiatives aimed at high-cost drugs for rare diseases. While the government has stated that it will continue to directly engage with willing partners on national universal pharmacare, details are not yet forthcoming.

The government also committed to working with regulators in other countries to enhance Canada's drug approval processes, while also proposing funding of up to $360 million over seven years, starting in 2021–22, to launch a National Quantum Strategy that will help design life-saving drugs.

Impact:

The continued progress toward 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. As with the 2019 Federal Budget, Budget 2021 gives no indication of a timeframe for implementation of a national pharmacare program.

Providing additional weeks of recovery benefits and EI regular benefits

In response to the financial impact on businesses due to COVID-19, and after the introduction of the Canada Emergency Response Benefit, the government introduced further support for Canadian workers through the Canada Recovery Benefit, the Canada Recovery Caregiving Benefit, and the Canada Recovery Sickness Benefit. Budget 2021 proposes to provide up to 12 additional weeks of Canada Recovery Benefit to a maximum of 50 weeks.

The new measures will provide relief as follows:

- The first 4 of these additional 12 weeks will be paid at $500 per week;
- If the economy reopens and employment conditions improve, the remaining 8 weeks of the extension will be paid at a lower amount of $300 per week claimed;
- All new Canada Recovery Benefit claimants after July 17, 2021 would also receive the $300 per week benefit, available until September 25, 2021; and
- The Canada Recovery Caregiving Benefit will be extended an additional 4 weeks, to a maximum of 42 weeks, at $500 per week.

Maintaining flexible access to employment insurance benefits

Budget 2021 proposes $3.9 billion over three years, starting in 2021–22, to provide for legislative changes to make Employment Insurance (EI) more accessible and simpler for Canadians. The changes would:

- Maintain uniform access to EI benefits across all regions, including through a 420-hour entrance requirement for regular and special benefits, with a 14-week minimum entitlement for regular benefits, and a new common earnings threshold for fishing benefits;
- Allow claimants to start receiving EI benefits sooner by simplifying rules around the treatment of severance, vacation pay, and other monies paid on separation; and
- Extend the temporary enhancements to the Work-Sharing program such as the possibility to establish longer work-sharing agreements and a streamlined application process, which will continue to help employers and workers avoid layoffs.

Budget 2021 also announced forthcoming consultations on future, long-term reforms to EI.

Impact:

Employers should be particularly interested in the outcome of EI reform discussions, given their likely impact on employees' potential working arrangements and post-employment compensation.

COVID-19 recovery efforts

The following initiatives were announced to address the impact that COVID-19 has had in many areas including the burdened health care system and mental health of those most impacted by the pandemic:

- Further to the statement made by the government in March 2021, the federal government is proposing to provide provinces and territories with $4 billion through a one-time top-up to the Canada Health Transfer to help clear the backlog in procedures and treatments;
- Provide an additional $116 million over two years, starting in 2021–22, for the Substance Use and Addictions Program to support a range of innovative approaches to harm reduction, treatment, and prevention at the community level;
- Provide $100 million over three years, starting in 2021–22, to the Public Health Agency of Canada to support projects for innovative mental health interventions for populations disproportionately impacted by COVID–19, including health care workers, front-line workers, youth, seniors, Indigenous people, and racialized and Black Canadians; and
- $50 million over two years, starting in 2021–22, to Health Canada to support a trauma and post-traumatic stress disorder (PTSD) stream of mental health programming for populations at high risk of experiencing COVID–19 trauma and those exposed to various trauma brought about by COVID-19.

Impact:

As we learn more about potential long-term physical and mental effects of the COVID-19 pandemic, mental health issues due to stresses related to the COVID-19 virus will continue to evolve and affect Canadians for the foreseeable future. The above measures may help reduce the impact in the above-noted populations, but plan administrators and benefits providers will need to ensure they are able to adapt to new mental health realities for their employees.

Other measures of interest

Enhancing data collection on cyber security threats

Budget 2021 proposes to provide $4.1 million over five years, starting in 2021-22, and $1.0 million ongoing, for Public Safety Canada to continue the Cyber Security and Cybercrime Survey program.

The initiative will continue the Cyber Security and Cybercrime Survey program, which allows the government to monitor trends, collect data, and better respond to cyber security threats that could affect people and businesses across the country. Cyber security issues for pension plan and benefit plan administrators increase as COVID-19 measures require increased reliance on electronic communications and electronic signatures, and the government notes that in 2019, 21 percent of Canadian businesses reported being impacted by cyber security incidents.

Impact:

Better monitoring and information collection of cyber threats to the private sector is expected to benefit all Canadians, especially as communication and forms move further toward electronic methods. For pension and benefit plans that do not have proper cybersecurity measures in place, additional monitoring of threats by the federal government will help protect personal information and prevent data security breaches and their financial repercussions.

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