CALU REPORT

FEBRUARY 11, 2013

Pooled Registered Pension Plans – A Primer

In December 2009 the joint Federal-Provincial Research Working Group on Retirement Income Adequacy released a report which concluded that many Canadian households were not saving enough for retirement. Federal and provincial consultations were held during 2010 to discuss various solutions to encourage retirement savings. That December, the federal government announced that it planned to introduce defined contribution Pooled Registered Pension Plans (PRPPs) to provide Canadians who are without an employer-sponsored plan, including the self-employed, a simple, inexpensive method of saving more for their retirement.

By the end of 2012, legislation establishing the regulatory rules for federally regulated PRPPs, as well as the tax framework for all PRPPs, was enacted by the federal government. In this issue of CALU Report, author Ian K. Bradley describes the essential features of federally regulated PRPPs, the reaction to these plans from a policy perspective, and progress towards their implementation on a national basis.

CALU thanks Ian for his contribution.

Regards,
Kevin Wark, LL.B., CLU, TEP
President, CALU

Table Of Contents

Background

By Ian K. Bradley, LL.B[1]
Wilson and Partners LLP

Pooled Registered Pension Plans (PRPPs) arose from widespread concerns that many Canadians were not saving enough for retirement.[2] To address these concerns, Canada´s Federal and Provincial

Finance Ministers convened the joint Federal-Provincial Research Working Group on Retirement Income Adequacy, which released a report in December 2009. This report concluded that, while Canada´s retirement income system was generally sound, many Canadian households had insufficient private retirement savings.[3] Federal and provincial consultations in 2010 discussed several solutions to this problem, including increased mandatory Canada Pension Plan (CPP) contributions and voluntary methods to encourage retirement savings.

In December 2010, the federal government announced that it planned to address the retirement savings gap by increasing private savings through PRPPs. This article will describe the essential features of PRPPs, the reaction to these plans from a policy perspective, and progress towards their implementation.

RETURN TO TOP

Overview of PRPPs

PRPPs are a hybrid form of defined contribution pension plan, and are aimed at workers without an existing workplace pension plan, particularly employees of small businesses and the self-employed. The objective of these plans is to increase retirement savings and expand pension coverage, by making it easier to create and participate in workplace pension plans and to offer a "low cost" alternative to RRSPs.

The key feature of a PRPP is that members´ funds are pooled under the supervision of a professional third-party administrator. This is designed to encourage participation by lowering investment management and administrative costs, and by reducing the compliance burdens of participating employers. The PRPP rules are similar to the rules for "money-purchase" (i.e., defined contribution) Registered Pension Plans (RPPs), with some aspects of the rules for Registered Retirement Savings Plans (RRSPs) and Registered Retirement Income Funds (RRIFs). The basic structural rules for federally regulated PRPPs are found in the *Pooled Registered Pension Plans Act*[4](the "PRPP Act") and the *Pooled Registered Pension Plans Regulations*[5] (the "PRPP Regulations"), which came into force on Dec. 14, 2012. The tax rules for PRPPs are contained in amendments to the *Income Tax Act*[6] (the "Tax Act"), which were enacted on the same date.

The structural rules in the PRPP Act and Regulations apply only to federally regulated PRPPs. These are plans offered by employers in federally regulated industries (e.g. banking or telecommunications), and the plans of workers in the Yukon, the Northwest Territories and Nunavut. PRPPs in other jurisdictions require provincial enabling laws, which have not yet been drafted. The rules for provincially regulated PRPPs may differ from the federal rules, as demonstrated by developments in Quebec. The tax rules apply to all PRPPs, whether federally or provincially regulated.

RETURN TO TOP

Types of Plans

There are two ways that individuals can participate in a PRPP:

- an employer can offer a plan to its employees; or
- individuals can join a plan on their own (if their employer does not offer a plan, or they are self-employed).

The PRPP rules generally do not distinguish between employer-sponsored plans and individual plans. However, the practical mechanics of these plans can be somewhat different, as discussed below.

Employer-Sponsored Plans
In an employer-sponsored plan, an employer enters into a contract with a plan administrator to provide a PRPP to a class of its employees. An administrator may not offer inducements to enter into a contract, except for inducements which benefit the employer and employees equally, or reimburse the employer´s cost of switching from another PRPP.[7]

All full-time employees in the class are automatically enrolled in the PRPP.[8] Part-time employees in the class are enrolled automatically after working continuously for 24 months.[9] Employees must receive advance notice of plan membership, and may opt-out of the plan within 60 days of receiving this notice. Employees may also opt-out at any time on religious grounds.[10] Employees cannot otherwise terminate their plan membership. However, they can suspend contributions or withdraw funds from their accounts in certain circumstances, as discussed below.

Employees´ contributions are automatically deducted from their pay-cheques.[11] The employer may also choose to make contributions, but is not required to do so.[12] The employer is responsible for collecting all contributions and remitting them to the plan administrator. Unremitted contributions are held in a deemed trust in the event of bankruptcy.[13]

Individual Plans
The PRPP Act provides few specific rules for self-employed workers and employees of non-participating employers. These individuals will presumably enter into PRPP contracts directly with plan administrators. Employers are not responsible for collecting and remitting contributions for these plans, so the responsibility of making contributions should fall on the individual members. These individuals may terminate their plan membership at any time by notifying the administrator.[14]

Administrators
Administrators play a key role in the PRPP system. They are third-party professional advisors who assume the day-to-day administrative responsibilities of a PRPP, including many responsibilities of an employer in a traditional pension plan.

An administrator must be a Canadian corporation that is licensed by the Office of the Superintendent of Financial Institutions (OSFI). To obtain a license, a corporation:

- must have the financial resources and operational capability to administer a PRPP;
- must have sufficient risk management procedures to handle PRPP risks;
- must submit a five-year business plan to OSFI; and
- its directors and officers must be of good character.[15]

Basic Duties
The administrator establishes the key choices available to plan members – the investment options and contribution rates (plan sponsors should be able to influence these features in practice, since they will presumably choose their plans based on the features offered by the administrator). Once the PRPP is operational, the administrator invests the plan´s funds and performs the day-to-day administrative activities.

An administrator manages the PRPP and its assets as a trustee for the plan members and has certain fiduciary duties. In particular, the administrator must:

- Administer the plan in the best interests of the members, exercising the care of a reasonably prudent person, considering the nature of its business.
- Exercise the care, diligence and skill of a reasonably prudent trustee to minimize the possibility that the PRPP will lose its registered status.
- Invest the PRPP's funds in the manner that a reasonable and prudent person would apply in respect of a portfolio of investments appropriate for retirement savings.[16]

A participating employer is not liable for the acts or omissions of an administrator, although the employer must provide the administrator with sufficient information to perform its duties.[17]
Administrators are obligated to provide their PRPPs at the same low cost to all members. Low cost is determined based on the market fees charged for defined contribution pension plans of at least 500 members.[18]

Registration and Ongoing Reporting Obligations
Federal PRPPs must be registered by OSFI, and all PRPPs must registered by the Minister of National Revenue (the "Minister"). The administrator is responsible for registering the plan and for ensuring that it complies with on-going regulatory requirements. Among other things, the administrator must file annual information returns with OSFI and the Minister and must notify them in advance of any amendments to the plan.[19] If a plan fails to comply with its ongoing regulatory requirements, its registration may be revoked.[20]

The administrator also has ongoing disclosure obligations towards plan members and participating employers. Communications with plan members can generally be made electronically, if the members consent.

RETURN TO TOP

Contribution Rules

Contributions to a plan member´s account can generally be made only by the member or his or her employer. Contributions must vest immediately and indefeasibly for the benefit of the member, and generally cannot be made after the member turns 71.[21]

Administrators can offer a choice of employee contribution rates for members of employer-sponsored plans, including a default rate for members who do not choose a rate. Administrators may also increase the contribution rates for existing plans. A plan member can take a contribution holiday by setting his or her contribution rate to 0%.[22] This can be done after at least 12 months have passed since the member began making contributions. The contribution holiday can last from three to 60 months.[23]

The tax rules for contributions are generally integrated with the RRSP rules.[24] Contributions by employers and plan members are both tax deductible. Unlike RRSP contributions, however, employer contributions to a PRPP are not considered taxable remuneration and are not subject to source deductions or payroll taxes.[25] This can offer considerable advantages over a traditional RRSP.

Total RRSP and PRPP contributions made by an individual, or by an employer for the individual, cannot exceed the individual´s unused RRSP contribution room.[26] This means that PRPP contributions reduce the ability to make deductible RRSP contributions and vice versa. Annual contributions made by an employer in respect of an individual cannot exceed the RRSP dollar limit for the year, unless the individual directs otherwise.

RETURN TO TOP

Investment Rules

The funds in plan members´ accounts are pooled and invested by the administrator for the benefit of the members. As with most other registered plans, these investments are tax-exempt within the PRPP, but are generally taxed in the member´s hands on withdrawal.

Investment Options
Administrators may offer plan members a choice of up to six different investment options.[27] If an administrator chooses to offer multiple investment options, these options must have varying risk and return profiles that would allow a reasonable and prudent person to create an investment portfolio appropriate for retirement savings.[28] The same options must be offered to all members of a plan. An administrator which offers an appropriate range of investment choices is deemed to satisfy its duty to invest members´ funds in the manner of a reasonable and prudent person.[29]

Plan members must choose an investment option within 60 days of receiving notice that they have become members. Members who do not make a choice will be enrolled in a default option, which must be either a balanced fund or a life-cycle fund. An administrator must offer the same default option for all of its PRPPs. Once selected, the investment option may only be changed at the member´s request, unless the option is discontinued.

As is evident from the above discussion, PRPPs are much more restrictive than RRSPs in terms of a members´ ability to access different types of investment options.

PRPP Investment Restrictions
A plan administrator must invest members´ funds in the manner of a reasonable and prudent person, in respect of a portfolio of investments appropriate for retirement savings.[30] Aside from this general duty, there are several specific restrictions on how plan funds may be invested, relating to:

- concentration limits;
- voting rights;
- related party investments;
- restricted investments; and
- designated pooled pension plans (DPPPs).

The "restricted investment" concept is similar to the "prohibited investment" rules for RRSPs and Tax-Free Savings Accounts (TFSAs), while the other restrictions have no equivalent in the RRSP rules. Unlike most other types of registered plans, including RRSPs, PRPPs are not subject to any "qualified investment""rules. These rules generally restrict the investments of a registered plan to cash, publicly traded securities, government or investment-grade debt, guaranteed investment certificates (GICs) and certain other investments.

In addition, an administrator may not borrow money or other property for purposes of a PRPP.

Concentration Limits
No more than 10% of the market value of a member's funds may be invested directly or indirectly in a single entity, or in entities in the same group. Exceptions are provided for investments in insured bank deposits; mutual funds, pooled funds and segregated funds; the unallocated general funds of life insurers; certain real estate, resource, and investment companies which provide services to the PRPP; government-backed securities; and broad-based index funds and index-linked derivatives. Limited exceptions are also provided for securities acquired under a plan of arrangement, and for assets acquired on the realization of a security interest.[31]

Limits on Voting Rights
A PRPP cannot invest directly or indirectly in securities that carry more than 30% of the voting rights of a corporation. Exceptions are provided for certain real estate, resource and investment companies which provide services to the PRPP; and for certain investments acquired under a plan of arrangement or on the realization of a security interest.[32]

Related Party Investments
Several rules restrict dealings with "related parties" (as defined in the PRPP Regulations). Related parties in this context generally include plan members; officers, directors and employees of the plan administrator and other persons responsible for holding or investing plan assets; and entities which have a substantial investment in the plan administrator.[33] The related party rules also generally apply to the immediate family members of these persons, entities that are controlled by these persons, and entities in which these persons have substantial investments. A substantial investment generally consists of owning more than 25% of the equity interests in the entity, or more than 10% of the voting rights.[34]

An administrator cannot, directly or indirectly:

- invest plan members´ funds in the securities of a related party;
- lend plan members´ funds to a related party; or
- engage in related party transactions on behalf of the plan.

These restrictions continue to apply for 12 months after an entity ceases to be a related party.[35]

The related party restrictions do not apply to investments in mutual funds, pooled funds and segregated funds; government-backed securities; and broad-based index funds. In addition, a related party may provide operational or administrative services to a plan, if these services are provided under terms and conditions at least as favourable as arm´s-length terms and conditions. Limited exceptions are also provided for investments acquired under a plan of arrangement or on the realization of a security interest.[36]

Restricted Investments
The tax rules for PRPPs prohibit a plan from holding "restricted investments." These are generally investments in entities that are related to plan members. A plan´s tax registration may be revoked if it makes an investment that the administrator knows or ought to know is a restricted investment.[37]
Restricted investments generally include:

- debts of plan members;
- shares and debts of corporations in which a plan member (together with non-arm´s-length persons) directly or indirectly owns at least 10% of any class of shares;
- interests and debts of partnerships and trusts in which a plan member (together with non-arm´s-length persons) directly or indirectly owns at least 10% of any class of interests, or at least 10% of the fair market value of all interests; and
- interests in or rights to acquire any of the above property.[38]

A plan´s tax registration may also be revoked if the value of a member´s interest depends on the value of any of the property listed above, or income or capital gains from such property.[39]

Additional Restrictions for Designated Plans
The tax rules impose additional investment restrictions on DPPPs. These are PRPPs that have a small number of participating employers or are dominated by a single employer. A PRPP will be a DPPP if it meets any of the following tests:

- it has less than 10 participating employers;
- more than 50% of plan assets (by fair market value) are held by employees of a single participating employer; or
- more than 50% of plan members are employees of a single participating employer.[40]

A PRPP will also be considered a DPPP if it is reasonable to conclude that one or more employers participate in the plan primarily to avoid any of these tests. Related employers are considered a single employer for the purposes of these tests.

DPPPs may not invest in any shares, debt or other interests of participating employers (or of persons or partnerships that do not deal at arm´s length with participating employers). This rule also applies to interest in or rights to acquire any of these securities. A plan´s tax registration may be revoked if it violates this restriction.[41]

RETURN TO TOP

Withdrawal Rules

Funds in a PRPP are generally locked-in until retirement, with limited exceptions. Funds may be withdrawn through periodic benefit payments, or in certain lump sum transfers. This is unlike RRSPs, where the owner may withdraw funds at any time upon request (subject to applicable taxes). Exceptions are provided for the death or disability of a plan member, and for marital breakdown. Withdrawals are normally taxed in the hands of the recipient, but are generally eligible for the pension tax credit and the pension income splitting rules if the recipient is 65 or older.[42] Similar to other retirement arrangements, funds must be withdrawn in each year once a member reaches age 71, based on the minimum payout limits for money-purchase RPPs.[43]

Periodic Benefits
Plan members may elect to receive periodic benefits once they reach age 55.[44] Such benefits must be paid at least once a year. The member may choose the amount of each payment, within a range bounded by the minimum payout limits for money-purchase RPPs and the yield on government bonds. These benefits are generally included in the member´s income.

Lump Sum Transfers
A plan member can transfer a lump sum from a PRPP if:

- the member is no longer employed by a participating employer (or never had a participating employer);
- the plan has been terminated;
- the member receives periodic benefit payments.[45]

This means that lump sum transfers are generally available to retired or terminated employees and the self-employed.

Funds may be transferred to any of the following on a tax-deferred basis:

- another PRPP;
- an RPP (if the RPP´s rules permit such a transfer);
- a Locked-In RRSP, a Restricted Locked-In Savings Plan, a Life Income Fund, or a Restricted Life Income Fund (these are essentially RRSPs and RRIFs with withdrawal restrictions and periodic benefit rules similar to a PRPP); or
- a qualifying life annuity (this is generally an immediate or deferred life annuity which satisfies the requirements for annuities paid by an RRSP).[46]

If the total funds in the member´s account are less than 20% of maximum pensionable earnings for the year the transfer is made, the funds may be transferred directly to the member. Such a transfer would not be tax-deferred.[47]

Unlike an RRSP, early withdrawal is not available for Home Buyer´s Plans or Lifelong Learning Plans. However, member contributions to a PRPP can be considered repayments of previous withdrawals under such plans.

The withdrawal restrictions do not apply to a plan member who has not resided in Canada for at least two years and is no longer employed by a participating employer.[48] However, a payment from a PRPP to a non-resident would generally be subject to 25% withholding tax, except for the tax-deferred transfers described above and certain payments made on the death of a plan member.[49]

Disability
Funds may be withdrawn on an annual or lump-sum basis in certain circumstances where a plan member suffers from a mental or physical condition which is likely to considerably reduce their life expectancy.[50] These amounts would generally be included in the member´s income.

Death
The rules for transfers on the death of a plan member are similar to the rules for RPPs and RRSPs. If the member´s spouse or common-law partner is named as a successor member, he or she will inherit the deceased´s plan membership on a tax-deferred basis.[51]

Where the deceased has no successor member but does have a qualifying survivor (generally a spouse or common-law partner, or a financially dependent child or grandchild), funds may be transferred on a tax-deferred basis from the deceased´s account to a registered plan or qualifying annuity of the survivor, based on the tax-deferred transfer options described above.[52] Dependent children and grandchildren may also transfer the funds to a Registered Disability Savings Plan (RDSP) or use the funds to purchase certain term annuities.[53] Amounts that are transferred to a survivor by other means are included in the survivor´s income. The remaining value of the PRPP after any transfers to qualifying survivors is included in the deceased´s income.

Marital Breakdown
PRPP funds may be transferred on a tax-deferred basis on the breakdown of a marriage or common-law partnership, to a registered plan or qualifying annuity of the former spouse or common-law partner, based on the tax-deferred transfer options described above.[54]

RETURN TO TOP

Implementation

As previously noted, The PRPP Act and Regulations only apply to federally regulated PRPPs. Provincial enabling legislation is needed to make PRPPs available to most Canadians. When PRPPs were first announced in December 2010, the provincial finance ministers agreed to a framework for their implementation.[55] However, few provinces have taken concrete steps to introduce PRPPs in their jurisdictions.

Quebec proposes to implement PRPPs through a new savings vehicle called the Voluntary Retirement Savings Plan (VRSP). Quebec introduced draft VRSP legislation in its March 2012 Budget. These rules strongly resembled the federal PRPP rules, with some key differences. In particular, employers with at least five employees would be required to participate (but not to make contributions), and default contribution rates would increase over time. However, these rules were not enacted before the September 2012 provincial election. In its November 2012 Budget, the Parti Quebecois government announced that new VRSP legislation will be introduced by the spring of 2013. This legislation will incorporate the recommendations of an expert committee report on Quebec´s retirement system, which are expected in early 2013.

At this time no other provinces have enacted laws to implement PRPPs, although several provinces may be preparing legislation.[56] In its March 2012 Budget, Ontario raised concerns regarding the federal PRPP rules and suggested that PRPPs be complemented by enhancements to the Canada Pension Plan. The future of PRPPs in most jurisdictions is currently unclear.

The federal government believes that harmonization of PRPP rules across Canada is critical to achieving the low-cost objective of these plans. The PRPP Act provides for agreements between the federal government and the provinces to harmonize rules, and to coordinate administration and enforcement.[57] It remains to be seen whether these goals will be achieved in practice.

RETURN TO TOP

Policy Perspectives

A key advantage of PRPPs is that they are easy to set up and administer, which should reduce barriers to participation for small employers. The pooling aspect of these plans should reduce costs through economies of scale and should also allow for risk pooling. According to the federal government, PRPPs should also encourage Canadians to utilize the large amount of accumulated unused RRSP contribution room. The federal government believes that these advantages should make PRPPs an attractive option and lead to expanded retirement savings.[58]

However, a number of commentators have raised concerns regarding the federal PRPP rules. A key criticism is that PRPPs offer few tax advantages over existing retirement options.[59] In particular, these plans do not increase the limits on tax-deferred savings. PRPPs could simply shift savings into new vehicles, without increasing overall retirement savings. Since employer participation is voluntary, take-up could be limited.[60] Withdrawals from PRPPs would generally be taxed in the members´ hands and could trigger claw-backs of seniors´ benefits. As a result, taxes on withdrawals could exceed tax savings on contributions, especially for low- or middle-income workers.[61] Commentators have also noted that, like RRSPs and defined contribution RPPs, PRPPs do not duplicate the most attractive feature of defined benefit pension plans – namely, guaranteed regular pension benefits.[62]

There is also concern within the advisor community that the focus of PRPPs on being “low cost” could result in plan members losing access to financial and retirement planning advice. This could be an impediment to many people utilizing PRPPs, not properly taking full advantage of this program or failing to consider other options that may be more suitable to their goals and objectives.

Commentators have also made a variety of recommendations to make PRPPs more effective. Some recommendations have focused on increasing participation and savings. Commentators have suggested that employer participation should be mandatory, and that default contribution rates should split contributions between employers and employees.[63] Savings could also be increased through required minimum contribution rates, with caps for high-income earners.[64] Commentators have also suggested that the rules for default investments should be more detailed, since many workers may pay little attention to their choices.[65]

Other recommendations have addressed the tax-effectiveness of PRPPs. Commentators have suggested that PRPPs include an option resembling existing TFSAs, in which contributions are made with tax-paid funds but investments accumulate tax-free. Such an option could be particularly attractive for low-income earners.[66] The PRPP rules could be modified to facilitate target benefit pensions which address the market and longevity risks facing workers, similar to defined benefit plans.[67] More early withdrawal options could be added, including home buyers´ and lifelong learning exceptions.[68]

Many of these recommendations could be implemented in provincial PRPP rules. However, others would require changes to the federal tax rules, and would need the cooperation of the federal government.

RETURN TO TOP

In Summary

It is unclear at this time whether PRPPs will grow to become an important component of the Canadian retirement income funding system. However, it is prudent for financial and retirement advisors to become familiar with the design of these rules and how they are similar to, and different from, other retirement programs such as RRSPs. This way, advisors will be in a position to respond to inquiries from employers, employees and self-employed clients who may be interested in learning more about this type of program. CALU will continue to keep members advised as the provinces respond to the federal legislation with their own proposals.

Copyright the Conference for Advanced Life Underwriting, February 2013

RETURN TO TOP

About the Author

Ian K. Bradley, LL.B, is an associate in the Toronto office of Wilson & Partners LLP. He joined the firm in August 2011, after articling there in 2010. He maintains a general corporate tax practice. He can be reached by phone at 416-941-8260 or by e-mail at ian.k.bradley@ca.pwc.com.

RETURN TO TOP

Endnotes

[1] The author would like to thank Jillian Welch and Manjit Singh of Wilson & Partners LLP for their valuable suggestions and comments. Any errors are the author´s responsibility.

[2] Department of Finance (Canada), "Backgrounder: The Retirement Income Landscape of Canada" (November 25, 2011).

[3] *Ibid*.

[4] S.C. 2012, c. 16.

[5] S.O.R./2012-222.

[6] R.S.C. 1985, c. 1, 5th supp. (as amended).

[7] Section 24 of the PRPP Act and section 19 of the PRPP Regulations.

[8] Section 39 of the PRPP Act.

[9] Section 40 of the PRPP Act.

[10] Subsections 41(5) and 42(1) of the PRPP Act.

[11] Section 46 of the PRPP Act.

[12] Section 29 of the PRPP Act and paragraph 147.5(3)(a) of the Tax Act.

[13] Section 31 of the PRPP Act.

[14] Section 44 of the PRPP Act.

[15] Section 11 of the PRPP Act, section 7 of the PRPP Regulations, and the definition of "administrator" in subsection 147.5(1) of the Tax Act.

[16] Subsections 22(2) and (4) of the PRPP Act and subsection 147.5(9) of the Tax Act.

[17] Sections 30 and 32 of the PRPP Act.

[18] Section 26 of the PRPP Act and section 20 of the PRPP Regulations.

[19] Sections 13 and 58 of the PRPP Act, subsection 147.5(7) of the Tax Act, and section 213 of the Income Tax Regulations, C.R.C. c. 945.

[20] Section 36 of the PRPP Act.

[21] Paragraphs 147.5(2)(g) and 147.5(3)(b) of the Tax Act.

[22] Subsection 45(2) of the PRPP Act.

[23] Section 21 of the PRPP Regulations.

[24] In particular, subsections 147.5(11) and (12) of the Tax Act deem member contributions to PRPPs to be RRSP premiums, and deem PRPP members´ accounts to be RRSPs, for many purposes of the Tax Act.

[25] Subparagraph 6(1)(a)(i) of the Tax Act. Strictly speaking, employer contributions to RRSPs are not permitted. However, an employer may contribute an amount of additional salary or bonus to an employee´s RRSP on behalf of the employee.

[26] See the definition of “unused RRSP deduction room” in subsection 146(1) of the Tax Act and the tax on excess contributions in section 204.02 of the Tax Act.

[27] Subsection 23(1) of the PRPP Act and section 17 of the PRPP Regulations.

[28] Subsection 23(2) of the PRPP Act.

[29] Subsection 23(4) of the PRPP Act.

[30] Subsection 22(4) of the PRPP Act.

[31] Sections 9 and 14 of the PRPP Regulations.

[32] Sections 10 and 14 of the PRPP Regulations.

[33] See the definition of “related party” in section 1 of the PRPP Regulations.

[34] Section 5 of the PRPP Regulations.

[35] Sections 11 and 12 of the PRPP Regulations.

[36] Sections 13 and 14 of the PRPP Regulations.

[37] Subparagraph 147.5(3)(e)(i) of the Tax Act.

[38] See the definition of “restricted investment” in subsection 147.5(1) of the Tax Act.

[39] Paragraph 147.5(3)(f) of the Tax Act.

[40] See the definition of “designated pooled pension plan” in subsection 147.5(1) of the Tax Act.

[41] Subparagraph 147.5(3)(e)(ii) of the Tax Act.

[42] See the definition of “eligible pension income” in subsections 60.03(1) and 118(7) of the Tax Act. Payments received by a person under age 65 may also be eligible for the pension tax credit and pension income splitting, if they are received due to the death of a spouse or common-law partner.

[43] Subsection 147.5(4) of the Tax Act.

[44] Section 48 of the PRPP Act and sections 36 to 37 of the PRPP Regulations.

[45] Sections 50 and 54 of the PRPP Act. The amount that can be transferred by a member who receives variable payments may be limited to the amount of the variable payments. The PRPP Act is somewhat unclear on this point.

[46] Subsection 54(2) of the PRPP Act and sections 38 to 42 of the PRPP Regulations.

[47] Paragraph 47(2)(b) of the PRPP Act.

[48] Paragraph 34(a) of the PRPP Regulations.

[49] Paragraph 212(1)(h) of the Tax Act.

[50] Paragraph 47(2)(a) of the PRPP Act and section 35 of the PRPP Regulations.

[51] Section 52 of the PRPP Act and subsection 147.5(15) of the Tax Act.

[52] Section 52 of the PRPP Act and subsections 147.5(16) to (22) of the Tax Act.

[53] See the definitions of “eligible individual” and “eligible proceeds” in subsection 60.02(1) of the Tax Act.

[54] Section 53 of the PRPP Act and subparagraph 147.5(21)(b)(ii) of the Tax Act.

[55] Department of Finance (Canada), “Supporting a Strong Retirement System, Support for Provinces and Territories while Moving Towards Budget Balance,” (Dec. 20, 2010).

[56] Barbara Shecter, “No traction for pooled pensions,” *Financial Post*, (Oct. 22, 2012).

[57] Sections 5 to 9 of the PRPP Act.

[58] Ted Menzies, “Pooled plans address a savings gap,” *Financial Post* (Sept. 27, 2012).

[59] Keith Ambachtsheer and Edward Waitzer, “Saving Pooled Registered Pension Plans: It´s Up to the Provinces,” *Pension Papers*, C.D. Howe Institute, (Dec. 15, 2011); and James Pierlot and Alexandre Laurin, “Pooled Registered Pension Plans: Pension Saviour – or a New Tax on the Poor?", *Commentary No. 359*, C.D. Howe Institute, (Aug. 23, 2012).

[60] Ambachtsheer, ibid.

[61] Pierlot, *supra* note 59.

[62] Pierlot, *supra* note 59.

[63] Ambachtsheer, *supra* note 59; Jean-Daniel Coté, “Stop Pretending: PRPPs not a Panacea,” Rogers Publishing Ltd., available at www.benefitscanada.com, (Sept. 18, 2012).

[64] Ambachtsheer, *ibid*.; Coté, *supra* note 63.

[65] *Ibid*.

[66] Ambachtsheer, *ibid*; Cote, *supra* note 63; Pierlot, *supra* note 59.

[67] Pierlot, *ibid*.

[68] Ambachtsheer, *supra* note 59.