

## **PROPOSED TAX CHANGES RELATED TO SASKATCHEWAN PENSION PLAN – EXPLANATORY NOTES**

### **Income Tax Act**

#### **ITA**

##### **18(11)(g)**

Subsection 18(11) prohibits the deduction of certain expenses. Among these expenses is interest on money borrowed to make a contribution to a registered retirement savings plan or to a prescribed provincial pension plan (such as the Saskatchewan Pension Plan).

Paragraph 18(11)(g) is repealed, consequential on the introduction of new subsection 146(21.1) which, for certain purposes, deems a contribution made by an individual to an account under a “specified pension plan” to be a premium paid to a registered retirement savings plan. As a result of new subsection 146(21.1), the application of paragraph 18(11)(b) will prohibit the deduction of expenses that were previously prohibited under paragraph 18(11)(g).

For more information, please see related commentary on new subsection 146(21.1) and the new definition “specified pension plan” in subsection 248(1).

This amendment applies after 2009.

#### **ITA**

##### **56(1)(a)**

Paragraph 56(1)(a) includes in the income of a taxpayer certain amounts received in a taxation year. Subparagraph 56(1)(a)(i) includes certain pension benefits.

Subparagraph 56(1)(a)(i) is amended by replacing the reference in clause (C) to “prescribed provincial pension plan” with a reference to “specified pension plan”. This amendment is consequential on the introduction of the new definition “specified pension plan” in subsection 248(1). This new definition creates a cross-reference to section 7800 of the *Income Tax Regulation*, which identifies the Saskatchewan Pension Plan.

This amendment applies to payments made after 2009.

#### **ITA**

##### **56(2)**

Subsection 56(2) provides that where a taxpayer directs or concurs in the payment of an amount to another person, that amount shall be included in the taxpayer's income where, if it had been paid to the taxpayer, it would have been included in the income of the taxpayer.

Subsection 56(2) is amended to remove the reference to a “prescribed provincial pension plan” (i.e. the Saskatchewan Pension Plan) from the list of arrangements which are exempted from the general income attribution rule in that subsection. This amendment is a part of the changes being made regarding the treatment of the Saskatchewan Pension Plan, which, among other things, generally have the effect of treating SPP income the same way as RRSP income for the purposes of the attribution rules.

For more information, please see related commentary on subsections 146(21.1) to (21.3) and on the new definition “specified pension plan” in subsection 248(1).

This amendment applies to payments and transfers made after 2010.

#### **ITA**

##### **60(I)(v)**

Paragraph 60(I) allows an offsetting deduction to an individual who, as a consequence of the death of an RRSP or RRIF annuitant or a member of a registered pension plan (RPP), receives specified amounts of taxable proceeds from the RRSP, RRIF or RPP and who transfers a designated portion of such income to their own RRSP or RRIF, or uses the funds to acquire a specified annuity.

Clauses 60(I)(v)(B.01) and (B.1) are amended to extend this rollover treatment to lump sum death benefits payable out of a “specified pension plan” (i.e. the Saskatchewan Pension Plan), in a manner similar to rollovers of death benefits paid from a registered pension plan. Please see the commentary on the new definition “specified pension plan” in subsection 248(1).

This amendment applies to taxation years that begin after 2009.

#### **ITA**

##### **60(v)**

Paragraph 60(v) provides a deduction in computing income in respect of a taxpayer’s contributions to a prescribed provincial pension plan (i.e. the Saskatchewan Pension Plan). This paragraph is repealed, consequential on the introduction of new subsection 146(21.1) which deems contributions made to a “specified pension plan” to be premiums paid to an RRSP for certain purposes.

For more information, please see related commentary on new subsection 146(21.1) and on the new definition “specified pension plan” in subsection 248(1).

This amendment applies to taxation years that begin after 2009.

#### **ITA**

##### **60.02(1)**

Section 60.02 provides the rules that govern tax-deferred rollovers to registered disability savings plans (RDSPs) of certain amounts received from registered retirement savings plans (RRSP), registered retirement income funds (RRIF) or registered pension plan (RPP) as a consequence of the death of the RRSP or RRIF annuitant or the RPP member.

Section 60.02 is amended to permit lump sum death benefits paid out of a “specified pension plan” (i.e. the Saskatchewan Pension Plan) to qualify for a rollover to an RDSP, in the same manner as rollovers from RPP death benefits. More specifically, the definitions “eligible individual” and “eligible proceeds” in subsection 60.02(1) are amended to include references to lump sum amounts received from a “specified pension plan”. See the commentary on the new definition “specified pension plan” in subsection 248(1).

This amendment applies to “specified RDSP payments” (as defined in subsection 60.02(1)) made after June 2011.

**ITA  
74.1(1)**

Subsection 74.1(1) provides that income from property transferred or loaned by an individual to a spouse or common-law partner of the individual is treated for tax purposes as income of the transferor. For this purpose, certain transfers are excluded, including transfers by way of assignment of retirement pension income from a prescribed provincial pension plan (i.e. the Saskatchewan Pension Plan).

Subsection 74.1(1) is amended to remove the reference to a prescribed provincial pension plan. This reference is no longer necessary because of the introduction of new subsection 146(21.1), which deems contributions to a “specified pension plan” to be premiums paid to an RRSP for various purposes of the Act. As a result of this amendment and new subsection 146(21.1), spousal accounts under the Saskatchewan Pension Plan will be subject to the same income attribution rules under the *Income Tax Act* that apply to spousal RRSPs.

For more information, please see related commentary on subsection 74.5(12).

This amendment applies to transfers and loans made after 2010.

**ITA  
74.5(12)**

Sections 74.1 to 74.5 provide attribution rules in respect of property transferred or loaned by an individual to certain other people. Subsection 74.5(12) sets out a list of specified transfers of property that are exempt from the attribution rules under sections 74.1 to 74.3, including deductible premiums paid by an individual to an RRSP that is a spousal or common-law partner plan in relation to the individual and deductible contributions

made by an individual to the account of the individual's spouse or common-law partner under a prescribed provincial pension plan (i.e. the Saskatchewan Pension Plan).

New subsection 146(21.1) deems contributions to a "specified pension plan" (i.e. the Saskatchewan Pension Plan) to be premiums paid to an RRSP for various purposes of the Act, including paragraph 74.5(12)(a). Subsection 74.5(12) is therefore amended to repeal paragraph (a.1), which is no longer necessary. Pursuant to paragraph 74.5(12)(a), deductible contributions made to a spousal account under a specified pension plan will continue to be exempt from the attribution rules under sections 74.1 to 74.3.

Please see related commentary on new subsection 146(21.3) which specifies that, for taxation years after 2010, spousal accounts under a "specified pension plan" (i.e. the Saskatchewan Pension Plan) are subject to the same income attribution rules under section 146 as apply to spousal or common-law partner RRSPs.

This amendment applies to transfers made after 2010.

## **ITA 118(7)**

### **"pension income"**

The definition "pension income" in subsection 118(7) applies for the purposes of the pension income credit provisions under subsection 118(3) and the pension income splitting provisions under section 60.03. Subparagraph (a)(i) of the definition is amended by adding a reference to a "specified pension plan" (i.e. the Saskatchewan Pension Plan, see the commentary on the new definition "specified pension plan" in subsection 248(1)). This amendment adds annuity payments from a specified pension plan to the list of pension benefits that are eligible for the purposes of the pension income credit and pension income splitting provisions.

This amendment applies after 2009.

## **ITA 118(8)(e)**

Subsection 118(8) provides that certain amounts are not included in the definitions "pension income" and "qualified pension income" in subsection 118(7).

Paragraph 118(8)(e) is amended to remove the reference to payments received from a "prescribed provincial pension plan" (i.e. the Saskatchewan Pension Plan) from the list of the amounts that are excluded from "pension income" and "qualified pension income". This amendment is consequential on an amendment to subsection 118(7) which, in effect, permits income splitting in respect of life annuity payments received by a taxpayer from a "specified pension plan" (i.e. the Saskatchewan Pension Plan). For more information,

please see the commentary on the new definition “specified pension plan” in subsection 248(1).

This amendment applies after 2009.

## **ITA**

### **128.1(10)**

#### **“excluded right or interest”**

Subsection 128.1(10) defines the expression “excluded right or interest” for the purposes of the taxpayer migration rules in section 128.1. This definition is primarily of relevance for paragraphs 128.1(1)(b) and (4)(b), which treat individuals as having disposed of (and to have immediately reacquired) most of their property on immigrating to or emigrating from Canada. Generally, excluded rights or interests are exempted from these deemed disposition rules. Paragraph (a) of the definition refers to rights under, or an interest in a trust governed by, certain deferred income plans, including RRSPs.

Subparagraph (g)(iii) of that definition, which refers to a “prescribed provincial pension plan” (i.e. the Saskatchewan Pension Plan) is repealed, consequential on the introduction of new subsection 146(21.2), which for certain purposes deems an individual’s account under a “specified pension plan” to be an RRSP under which the individual is the annuitant. As a result, an individual’s rights under the Saskatchewan Pension Plan will continue to be treated as being an “excluded right or interest” for the purposes of section 128.1.

For more information, please see related commentary on subsection 146(21.2) and the new definition “specified pension plan” in subsection 248(1).

This amendment applies to taxation years that begin after 2009.

## **ITA**

### **146(8.2)(b)**

Subsection 146(8.2) is a relieving provision that provides a deduction for RRSP and RRIF distributions that are included in computing an individual’s income that are in respect of certain non-deducted RRSP premiums paid by the individual to the individual’s RRSP or to a spousal or common-law partner RRSP. Paragraph 146(8.2)(b) specifies that the deduction which is generally permitted under subsection 146(8.2) does not apply to the withdrawal of RRSP contributions made by way of a direct transfer from a registered pension plan, a deferred profit sharing plan or a prescribed provincial pension plan.

Paragraph 146(8.2)(b) is amended by replacing the reference in subparagraph (b)(iii) to “provincial pension plan prescribed for the purpose of paragraph 60(v)” with a reference

to “specified pension plan”, consequential on the introduction of the definition “specified pension plan” in subsection 248(1).

This amendment applies to taxation years that begin after 2009.

**ITA  
146(21)**

Subsection 146(21) provides for certain tax-free transfers of amounts from prescribed provincial pension plans (i.e. the Saskatchewan Pension Plan). Paragraph 146(21)(a) is amended to replace the reference to “prescribed provincial pension plan” with a reference to “specified pension plan”, consequential on the introduction of the new definition “specified pension plan” in subsection 248(1).

This amendment applies to taxation years that begin after 2009.

**ITA  
146(21.1)**

New subsection 146(21.1) applies for various purposes of the *Income Tax Act* and Regulations to deem an individual’s contributions to the account of the individual or the individual’s spouse or common-law partner under a specified pension plan (i.e. the Saskatchewan Pension Plan) (“SPP”) to be a premium paid to an RRSP of the individual or to a spousal or common-law partner RRSP, as the case may be.

Specifically, as a result of this new deeming provision, the following rules will apply to contributions made to an SPP in the same manner as they apply to contributions made to an RRSP:

- Paragraph 18(11)(b) will prohibit an individual from claiming deductions for interest and other financing expenses in respect of money borrowed to make contributions to an SPP;
- Paragraph 60(j) will permit a taxpayer to claim a deduction for amounts transferred to an account of the individual under an SPP, where the amount derives from a lump sum payment out of an unregistered pension plan (attributable to services rendered by the taxpayer or taxpayer’s spouse while a non-resident of Canada) where the amount was included in the taxpayer’s income under subparagraph 56(1)(a)(i);
- Paragraph 60(j.1) will provide a deduction, up to the limit specified under that paragraph, for the portion of a retiring allowance received by an individual that is contributed to an SPP;
- Subsection 74.5(12) will continue to exempt an SPP from the income attribution rules under sections 74.1 to 74.3. New subsection 146(21.3) will apply the spousal income attribution rules to spousal SPP accounts;
- Pursuant to paragraphs 146.01(3)(a) and 146.02(3)(a), it will be possible to designate payments to an SPP as repayments of amounts withdrawn under the

- Home Buyers' Plan or the Lifelong Learning Plan, subject to the conditions specified in those paragraphs, and if the SPP permits such payments;
- For the purposes of applying the Part X.1 tax on (non-deductible) contributions to RRSPs, contributions to an SPP will be deemed to be contributions made to an RRSP. Part X.1 tax will not apply to SPP contributions made in respect of taxation years before 2010 and not apply to the first \$600 of an individual's contributions to an SPP in respect of the 2010 taxation year;
  - It will be possible for the Part X.5 tax on "accumulated income payments" from RESPs to be reduced to the extent that the recipient of such a payment makes a deductible contribution to an SPP for the year in which the payment is received.

This amendment applies to taxation years that begin after 2009, except that in respect of the 2010 taxation year, subsection 146(21.1) will be read without reference to "section 214.1 of the Regulations", and Part X.1 will not apply to an amount that is the lesser of \$600 or the amount contributed by an individual to an SPP for that year.

## **ITA 146(21.2)**

New subsection 146(21.2) applies for various purposes of the *Income Tax Act* and Regulations to deem an individual's account under a specified pension plan (i.e. the Saskatchewan Pension Plan) ("SPP") to be a registered retirement savings plan under which the individual is the annuitant.

Specifically, as a result of this new deeming provision, the following rules will apply to an SPP in the same manner as they apply to an RRSP:

- Paragraph 146(8.2)(b) will provide an offsetting deduction where an individual withdraws a taxable amount from an SPP which relates to the individual's non-deductible overcontributions to the individual's account or a spousal account under an SPP;
- Because of subsection 146(8.21), where overcontributions to an SPP are subsequently withdrawn and deducted under subsection 146(8.2), those contributions will be subsequently disregarded for the purpose of the attribution rules under subsections 146(8.3) and 146.3(5.1);
- Paragraphs 146(16)(a) and (b), subsections 146.3(14) and 147(19) and section 147.3 will permit direct transfers of amounts to an SPP from any of an RRSP, a registered retirement income fund, a deferred profit sharing plan or a registered pension plan;
- Paragraph 18(11)(u) will prohibit an individual from claiming deductions for expenses related to services (e.g. administration services) provided to an SPP;
- An individual's benefit entitlement under an SPP will be an "excluded right or interest" as defined in subsection 128.1(10) and therefore will be exempted from the deemed disposition rules that otherwise apply under section 128.1 when an individual immigrates to or emigrates from Canada;

- An amount transferred from an SPP to an RRSP will continue to be an “excluded premium” under subsections 146.01(1) and 146.01(2) that does not qualify as a repayment under the Home Buyers’ Plan rules or Lifelong Learning Plan rules;
- Under Parts LXXXIII and LXXXV of the *Income Tax Regulations*, transfers to and from an RRSP will be deemed to include transfers to and from an SPP. For example, for purposes of past service pension adjustment regulations, a transfer to an SPP would be taken into account in determining an “excess money purchase transfer” under subsection 8303(7.1) of the Regulations or a “money purchase transfer” under paragraph 8304(5.1)(g) of the Regulations.

This amendment applies to taxation years that begin after 2009.

**ITA  
146(21.3)**

New subsection 146(21.3) specifies that, for the purposes of income attribution rules that apply to spousal or common-law partner RRSPs by virtue of subsections 146(8.3) to (8.7), a payment received out of a “specified pension plan” (i.e. the Saskatchewan Pension Plan) is deemed to be a payment received out of an RRSP.

If an individual withdraws an amount from his or her account under a specified pension plan and the individual’s spouse (or common-law partner) made contributions to that account in the taxation year in which the withdrawal occurred or in either of the two prior taxation years, the lesser of the amount withdrawn or the contributions made by the spouse in those three taxation years must be included in the income of the contributing spouse for the year of the withdrawal. The attribution rules do not apply to payments received after the breakdown of marriage or common-law partnership, nor in the circumstances described in subsection 146(8.7). Because of the application of new subsection 146(21.3), subsection 146(8.7) now provides an exclusion for, among other things, payments from an annuity payable from a specified pension plan (so long as the annuity cannot be commuted within its first three years).

For more information, please see related commentary on new subsections 146(21.1) and (21.2) and for the new definition “specified pension plan” in subsection 248(1).

This amendment applies to taxation years that begin after 2010.

**ITA  
146.01(1)**

**“excluded premium”**

Subsection 146.01(1) sets out definitions which apply for the purposes of the Home Buyers' Plan (HBP). An "excluded premium" is a specified type of RRSP contribution that does not qualify as a repayment of an amount withdrawn under the HBP. Among other things, the definition is relevant in preventing taxpayers from re-allocating existing

RRSP savings as Home Buyers' Plan repayments in lieu of making additional contributions to satisfy their HBP repayment requirements. The definition is amended to remove the reference to a "prescribed provincial pension plan" (i.e. the Saskatchewan Pension Plan), consequential on the introduction of new subsection 146(21.2). New subsection 146(21.2) deems an individual's account under a "specified pension plan" to be an RRSP under which the individual is the annuitant for a number of purposes, including the definition "excluded premium". An amount transferred from the Saskatchewan Pension Plan to an RRSP will therefore continue to be an excluded premium that does not qualify as an HBP repayment.

For more information, please see related commentary on subsection 146(21.2) and the new definition "specified pension plan" in subsection 248(1).

This amendment applies to taxation years that begin after 2009.

#### **ITA**

#### **146.02(1)**

#### **"excluded premium"**

Subsection 146.02(1) sets out definitions which apply for the purposes of the Lifelong Learning Plan (LLP). An "excluded premium" is a specified type of RRSP contribution that does not qualify as a repayment of an amount withdrawn under the LLP. Among other things, the definition is relevant in preventing taxpayers from re-allocating existing RRSP savings as LLP repayments in lieu of making additional contributions to satisfy their LLP repayment requirements. That definition is amended to remove the reference to a "prescribed provincial pension plan" (i.e. the Saskatchewan Pension Plan), consequential on the introduction of new subsection 146(21.2). New subsection 146(21.2) deems an individual's account under a "specified pension plan" to be an RRSP under which the individual is the annuitant for a number of purposes, including the definition "excluded premium". An amount transferred from the Saskatchewan Pension Plan to an RRSP will therefore continue to be an excluded premium that does not qualify as an LLP repayment.

For more information, please see related commentary on subsection 146(21.2) and on the new definition "specified pension plan" in subsection 248(1).

This amendment applies to taxation years that begin after 2009.

#### **ITA**

#### **146.3(2)(f)**

Paragraph 146.3(2)(f) prohibits a RRIF from receiving property, other than property transferred from a limited number of sources such as from a registered retirement savings plans (RRSP) or from a prescribed provincial pension plan (i.e. the Saskatchewan Pension Plan) in circumstances to which subsection 146(21) applies.

Paragraph 146.3(2)(f) is amended to replace the reference to a “prescribed provincial pension plan” by a reference to a “specified pension plan”, consequential on the introduction of the new definition “specified pension plan” under subsection 248(1).

For more information, please see related commentary on the new definition “specified pension plan” in subsection 248(1).

This amendment applies to taxation years that begin after 2009.

**ITA**  
**248(1)**

Subsection 248(1) defines a number of terms that apply for the purposes of the Act. Subsection 248(1) is amended by adding a new definition, “specified pension plan”, concurrent with an amendment to section 7800 of the *Income Tax Regulations* which specifies that the Saskatchewan Pension Plan is the prescribed arrangement for purposes of the new definition.

For more information, please see related commentary on section 7800 of the *Income Tax Regulations*.

This amendment applies after 2009.

**Income Tax Regulations**

**ITR**  
**7800**

The Saskatchewan Pension Plan is a prescribed provincial pension plan for various purposes of the *Income Tax Act*, including paragraph 60(v) which permits a deduction for contributions made to that plan. Part LXXVIII of the *Income Tax Regulations* also prescribes a \$600 annual deduction limit for purposes of paragraph 60(v).

Part LXXVIII is amended to prescribe the Saskatchewan Pension Plan for the purposes of the new definition “specified pension plan” in subsection 248(1) and by removing the \$600 deductible contribution limit. This amendment is consequential on enhancements made to the Saskatchewan Pension Plan by the Saskatchewan government starting in 2010 and on the related introduction of new subsections 146(21.1) to (21.3) of the *Income Tax Act* under which

- contributions made by an individual to a specified pension plan are deemed, for specified purposes, to be premiums paid by the individual to an RRSP under which the individual is the annuitant;
- an individual’s account under a specified pension plan is deemed, for specified purposes, to be an RRSP under which the individual is the annuitant; and

- for the purposes of income attribution rules applicable to spousal or common-law partner RRSPs because of subsections 146(8.3) to (8.7) of the Act, a payment received by an individual from a specified pension plan is deemed to be a payment from an RRSP under which the individual is the annuitant.

This amendment applies after 2009.