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MONEY *matters*

THE NEW RETIREMENT SAVINGS LANDSCAPE IN ONTARIO

Effective May 2015, The Ontario Retirement Pension Plan ACT, 2015 (Bill 56) and the Ontario Pooled Pension Plans ACT, 2015 (Bill 57) received royal assent and as a result, two major new initiatives have been introduced that can profoundly affect the retirement savings landscape in Ontario. In this issue, we will discuss Pooled Registered Pension Plans (PRPPs) and the Ontario Retirement Pension Plan (ORPP) in more detail.

POOLED REGISTERED PENSION PLANS

In May 2015, the government of Ontario cleared the way for establishing pooled registered pension plans (PRPPs) in the province, by passing legislation that enables companies to offer this new voluntary retirement savings option.

This new legislation allows businesses to offer PRPPs to their employees and it also makes this type of retirement savings plans available to the self-employed. Participation in the PRPP is voluntary for both employers and employees. At companies that decide to offer PRPPs, all employees will be automatically enrolled in the plan but can choose to opt out after 60 days. Also, savings in the plan are portable and will belong to the employees.

So far, British Columbia, Alberta, Saskatchewan, Quebec, and Nova Scotia have also passed legislation to implement PRPPs.



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"Two major new initiatives have been introduced that can profoundly affect the retirement savings landscape in Ontario."

While the federal government has spearheaded the creation of PRPPs as a voluntary method of increasing retirement savings, Ontario in addition to offering PRPPs, has been pushing for the establishment of its own public plan, the Ontario Retirement Pension Plan (ORPP).

According to the Ontario government, the motivation for establishing the ORPP is that currently, only 35% of the employees in the private sector in the province have a workplace pension plan*, and many people are not saving enough on their own to be able to retire while maintaining their standard of living.*Source:<http://www.ontario.ca/page/ontario-retirement-pension-plan>

THE ONTARIO RETIREMENT PENSION PLAN(ORPP)

The ORPP is the new mandatory pension plan program proposed by the government of Ontario according to the Ontario Pension Plan ACT (May 5, 2015), with an effective date of January 1, 2017.

According to the government web site on the subject, The Ontario Retirement Pension Plan (ORPP) is intended to provide a predictable source of retirement income for life, for millions of Ontarians.

The ORPP will be introduced in 2017. This will coincide with the expected reductions in Employment Insurance premiums, helping to minimize the impact on employees and employers.

To help with the adjustment, enrolment of employers and employees in the ORPP would occur in stages, beginning with the largest employers.

Employees and employers will contribute an equal amount, capped at 1.9% each (3.8% combined) on an employee's annual earnings up to \$90,000. Earnings above \$90,000 (in 2014 dollars) will be exempt from ORPP contributions.

ORPP has been the subject of much debate since it was introduced in the 2014 Ontario budget. The main bone of contention for the critics has been the definition of what constitutes a 'comparable' plan that would exempt employers from participating in the ORPP. The original design for ORPP provided that defined benefit and target benefit pension plans would be considered comparable plans.

However, according to an announcement by the government of Ontario in August 2015, employers that offer defined benefit pension plans (DB pension plans) with a minimum benefit accrual rate of 0.50 % would be considered to have a comparable plan. Employers that offer defined contribution pension plans (DC pension plans) with an employer contribution of at least 4% and combined employer-employee contributions of at least 8% are also considered to have a comparable plan, and would be exempt from the ORPP.

Furthermore, the Ontario government has developed comparability tests for various other types and combinations of DB and DC pension plans and will develop appropriate comparability thresholds for Pooled Registered Pension Plans

(PRPP) with equivalent characteristics of a DC pension plan.

Implications for Businesses

Employers that offer DB pension plans or DC pension plans that do not meet these requirements can choose to make changes to their current plan to meet the eligibility requirements and be exempt from ORPP participation, or decide to adhere to the ORPP while continuing to offer their employees the added benefit of the workplace pension plan they currently have in place. Employers offering other types of workplace savings plan arrangements, such as Group RRSP's or Deferred Profit Sharing Plans (DPSP's) will have to participate in the ORPP, unless they decide to convert their plans to a comparable plan that would meet the eligibility requirements.

The requirement for joining ORPP will be phased in based on the size of the company. Larger employers (500 or more employees) will see the obligation to join ORPP take effect in 2017 while medium size employers (between 50 and 499 employees) will be given an additional year to comply and, finally, small employers (fewer than 50 employees) will have until 2019. However, employers and employees with workplace pension plans that are or that could be comparable to the ORPP with modifications, as of August 11, 2015, will only be subject to the ORPP in 2020.

Employers do not need to take any action immediately and will be notified in writing early next year by the Ontario Retirement Pension Plan Administration Corporation to determine their participation in the ORPP.

I personally participated in a town hall meeting on the subject of ORPP in the spring of 2015 that was presided by the Honourable Mitzie Hunter, Ontario's Associate Minister of Finance. Based on the tone of the meeting, it seems that the Ontario government is quite intent on implementing the ORPP if it stays in power. On the other hand, Premier Kathleen Wynne, has been saying publicly that if the federal government had made the needed overhaul to CPP that Ontario would not need to implement the ORPP. While there is still a long road ahead -- including a federal election this fall with its unpredictable outcome -- and many questions that would need to be answered by the government before ORPP is actually implemented, businesses need to take this seriously and prepare accordingly.

We will be monitoring the situation and devising a strategy for helping business owners understand and deal with the changes that could be on the horizon if and when ORPP becomes reality.

For more details on ORPP, you can visit the following website: <https://www.ontario.ca/page/orpp-ontario-retirement-pension-plan#!/>

REDEFINING "RETIREMENT"

Susan Hodkinson, BA, Chief Operating Officer, Crowe Soberman LLP

In generations past, retirement was a definable event in someone's life – a milestone, fixed in time. There would be a presentation at the office, a family celebration and some

joyfully-arranged tee times for the following week. "Work" was a thing of the past.

While this scenario may still play out in some households, for many baby boomers approaching the traditional "retirement age" of 65, the idea of such a drastic cessation of such a major part of their lives can be disconcerting, frightening, or simply unimaginable.

Fixing the age of 65 as the optimal age at which one should retire happened a few generations ago. Life expectancy, and the youthfulness with which people approach life, has changed materially over the years. While those of us in our 50s reluctantly admit to a few more aches and twinges after activity, many of us are as fit and healthy as we were in our 30s. Mentally and cognitively, we feel at the peak of our games. The experience we have built over the three decades we have been working enables us to contribute at a high level. For those of us who raised families, the kids have become increasingly independent, which frees us up to pursue professional and personal pursuits that we have not had the time for previously. And in many cases, the financial foundations that would allow a complete end to income-earning might not be solid enough yet - that is, we may not be ready to retire financially.

Despite all these factors, there are many reasons for transition and change in one's 50s and 60s. Many boomers spend the majority of their careers in one profession and begin to wonder what other interesting things there are to do. While Ontario does not have a mandatory retirement age, employees might begin to feel out of place in an organization made up of people who are the same age as their children, and even grandchildren. Businesses can also benefit from natural turnover, since it allows younger people to develop and for new ideas and approaches to be applied to the business.

How should baby boomers approach this transitional period in their lives in a way that makes this stage feel like a new challenge filled with opportunity and stimulation?

Here are a few thoughts...

- **Remain current, especially as it relates to technology.** The pace of change in this area is astounding, and it is easy to get left behind. My 82-year-old mother frequently communicates with her children and grandchildren by text message. She has a Facebook page and regularly uses search engines for gathering information. Paying attention to this area will assist you in most of the other areas suggested below.

- **Look for opportunities to apply your knowledge in new ways.** If you have been a corporate executive, consider whether you could apply your technical expertise by teaching at a college or in a continuing education program. If you have managed people successfully over your career and found it satisfying, consider becoming certified as a Coach. If you have built and managed a business, become a mentor to younger entrepreneurs through organizations such as Futurpreneur, which is a national, non-profit organization that provides financing, mentoring and support tools to aspiring business owners aged 18-39. Seek out board positions. Learn about what it takes to be a good board member, and actively seek out organizations that are interesting

to you.

- **Develop, or further develop, a hobby.** Consider ways this hobby could be integrated with your professional expertise, or whether the activity could become a business in its own right.

- **Try new things.** Pushing yourself out of your comfort zone in one area often results in more confidence doing so in other activities.

- **Stay healthy.** Do all the things you know you should do. Eat properly, exercise, and get enough sleep. Inattention to these items in your 50s and 60s is problematic. In other words, you don't bounce back like you used to.

Considering all of these items will make your next chapter as full of promise and excitement as previous new beginnings. The future is bright.

Connect with the Author

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AMY'S ESTATES CORNER

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Amy leads the Wills and Estates practice at Hummingbird Lawyers bringing more than 14 years of practicing experience. In "Amy's Estates Corner" she will answer frequently asked questions about estate planning. Feel free to send us your questions and Amy will pick the most frequently asked ones and will answer them in a concise and easy to understand manner in our future issue.

Q: Does marriage revoke my will?

YES!! Under the Succession Law Reform Act, a will is revoked by marriage unless the will specifically states that it was made in the contemplation of marriage.

Q: Does Separation revoke my will?

NO!! Since you are legally married, your spouse will inherit under your will or under the Succession Law Reform Act. The spouse has the right to choose between the rights under the will or the rights under the SLRA.

Q: Does divorce revoke my will?

NO!! Divorce does not automatically revoke your entire will. The Succession Law Reform Act will invalidate any gift or appointment made to your ex-spouse, but not the entire will. This

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-Susan Hodkinson

easily could result in an undesirable outcome.

Q: Does divorce revoke my beneficiary designations for life insurance or RRSPs?

NO!! These designations will be honoured regardless of the status of your relationship. This includes second marriages. You must take proactive steps to change these beneficiary designations.

Q: What is a "Corporate Will"?

Typically, one person would have one Last Will and Testament that handles all aspects of their estate. But in 1998, The Ontario Supreme Court changed this idea with the ruling in *Granovsky Estate v. Ontario*. In this case, the court accepted the concept that a person could have two Wills; one Will that pays the administration tax and goes through probate, and a second Will that does not go through probate and avoids the administration tax. This created the Primary and Secondary Will concept. Imagine two buckets: One bucket holds all your personal items such as your bank accounts, real estate and personal belongings, and the second bucket only holds your corporation ownership. By separating these assets, only the assets in your primary Will would go through probate and be subject to the administration tax (probate fee). The secondary will that only holds your business ownership will not go through probate and will avoid the administration tax.

Q: What is a Power of Attorney?

A Power of Attorney is a legal document that appoints a specific person to "step into your shoes" and act on your behalf, if you are unable. A General Power of Attorney can only be used while you are mentally capable. A Continuing Power of Attorney means that it can be used even if you are mentally incapacitated. Powers of Attorney can be for general or unlimited use, or specific for a one-time special purpose, such as selling a piece of property.

Q: Is a Power of Attorney the same thing as a "Living Will"?

No. A Power of Attorney for Personal Care is sometimes called a Living Will. This document establishes what your wishes are regarding health care decisions if you are unable to speak for yourself. But a Power of Attorney for Personal Care also appoints someone to act on your behalf to carry out those wishes.

Q: Can a Power of Attorney be used after death?

No. A Power of Attorney is no longer valid after you die. When someone dies, the Last Will and Testament is the document that takes over.

Q: Is a Power of Attorney the same thing as an Executor?

No. A Power of Attorney is someone you appoint to act on your behalf while you are alive but are unavailable or incapacitated. An Executor is someone who is in charge of your Last Will and Testament and estate after you die.

Q: What is "Probate"?

Probate is the court process for when a person applies and obtains an Executor Certificate. This certificate is what grants the legal authority for the Executor to carry out the will. This used to be called "Letters of Probate." The Executor or "Estate Trustee" is the named person who follows the will and distributes the estate.

Q: Can I avoid Probate?

YES! Whether you have a will or not, if you die owning an asset in your name only, you will generally need to probate to transfer title. There are a few easy ways to avoid the probate process. Completing beneficiary designation forms on life insurance, RRSPs, TFSA's and any other pay on death accounts, allows the beneficiary to inherit without probate. Also using "joint tenancy" allows the survivor to receive the entire interest automatically without probate.

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-Amy MacAlpine