

# Proposed Changes to the Federal Income Tax Regulations

Various proposed changes to the Income Tax Regulations were announced in May 2003. For post-1990 contributions, members would be allowed to contribute to a pension plan's unfunded liability, pursuant to an arrangement under which a significant number of active members are required to make similar contributions and which is approved by the Minister. These contributions would be a prescribed eligible contribution under section 147.2(4)(a) of the Income Tax Act.

These contributions are deemed to be current service contributions and hence are subject to the usual limit (9% of compensation or \$1,000 + 70% of the pension credit). The Minister may agree to waive the application of the limit where it is reasonable to expect that the regular current service contributions made by members over the long term will fund no more than 50% of the related benefits (note that this ministerial waiver is not new).

These contributions will be subject to the 50% cost-sharing rule (excess contributions) under pension legislation unless amendments are made to the legislation. The Régie des rentes du Québec has mentioned in a telephone conversation that it does not expect to request an amendment to the Quebec pension legislation to exclude them.

The transfer of surplus from a defined contribution plan to a defined contribution plan was introduced in 2001 with the addition of section 147.3(7.1) of the Income Tax Act. Changes to the regulations to allow for this transfer have now been made and are generally effective after 1998.

Changes would allow for employer contributions after 2002 when a registered pension plan is in an "excess surplus" situation and contributions are normally prohibited. The contributions would be allowed if all of the following conditions are met:

- a. A shared-funding arrangement exists between the employers and the members and is approved by the Minister; and
- b. Responsibility for the governance of the plan is shared between the participating employers and members; and
- c. It is reasonable to expect that, on a long-term basis, the members' entitlement to benefit from actuarial surplus, the members' obligation to fund actuarial deficiencies and the members' obligation to make regular current service contributions, under the defined benefit provisions of the plan, will not be less than 66 2/3% or more than 100% of each such entitlement or obligation of the participating employers (this means that the members' share must be at least 40% and not more than 50% of the total); and
- d. the following amounts may be contributed:

Funding Rate	Total Employer and Employee Current Service Contributions
<= 110%	100% of current service costs
> 110% and <= 115%	75% of current service costs
> 115% and <= 120%	50% of current service costs
> 120% and <= 125%	25% of current service costs

> 125%	Nil
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Note that the funding rate test would have to be done in respect of each employer. The plan could not be a designated plan, and contributions would still be based on an actuarial valuation report that is not more than four years old. The Minister would have to approve all contributions.

*June 17, 2003*