RCF

RETIREMENT COMPENSATION FUNDING

For release on March 20, 2009

Submission to Department of Finance Canada regarding the consultation on the legislative and regulatory framework for private pension plans subject to the Pension Benefits Standards Act, 1985.

Toronto Meeting – Royal York Hotel
March 20, 2009
9:00am – 11:30am

We recognize that the focus is on federally regulated pensions, but federally regulated supplemental pension rules also affect large numbers of Canadians and should be equally considered as part of any pension changes.

Even prior to the current market meltdown, Registered Pension Plans did not provide pensions within Government "generally accepted guidelines" for those above the caps for both Defined Benefit and Money Purchase Pension Plans.

A remedy for this statutory gap is for an employer to establish a Supplemental Pension Plan which can be secured and funded utilizing a Retirement Compensation Arrangement (RCA) defined under sub-section 248(1) of the Income Tax Act. There are no contribution caps on RCA funding providing the total integrated pension does not exceed 2% times a maximum of 35 years service of final average earnings. RCAs are the only existing way to fund pension shortfalls or supplemental pensions for large and small public and private corporations, non-profit entities, and governments. Unfunded supplemental pension promises (SERP Letters) offer no protection in event of bankruptcy

However, RCAs are not used as they should be since 50% of the funds must be transferred to a Refundable Tax Account (RTA) paying no interest and held by the CRA. The 50% rate established in 1986, is an anomaly and unfair as the rate is now higher than if the funds are left in the corporation or paid to the executive. A high RTA rate diminishes performance resulting in higher funding costs. For business owners, RCAs are attractive for companies earning over the new $500,000 threshold who have elected not to establish a General Rate Income Pool (GRIP) but, do nothing for those earning below the small business limit.

It would be unfair to taxpayers to have one group with investment losses in Registered Pension Plans subsidized at the expense of others. The RCA allows private business owners to make up investment losses for themselves and their employees from their own profits with tax deductible corporate dollars which, are not taxed in the employee's hands until entitlements begin in retirement.

From the Government's perspective, there is no tax leakage to the RCA in that, contributions to the Refundable Tax Account would not be lower than corporate tax that would otherwise have been paid and, when refunds commence, tax is paid at personal rates.

No one knows for certain how long it will take equity markets to return to pre 2008 levels. Government action is therefore required sooner than later.

Our recommendation is that the Refundable Tax Account rate on RCA contributions be lowered to provide a level playing field. In summary, this will:

(i) Broaden the use of RCAs to fund supplemental pensions.
(ii) Lower the cost of funding.
(iii) Provide a more even hand between public and private pensions.

Retirement Compensation Funding Inc.
Suite 1502 - 67 Yonge St, Toronto, Ontario M5E 1J8
Telephone: 416.364.6444 Fax: 416.364.4092
Email: info@rcf.ca Web: www.rcf.ca