SOCIETY OF ACTUARIES

Article from:

The Actuary

October 1989 – Volume 23, No. 9

Recent developments in Canada

by J. Bruce MacDonald

In recent months, many significant developments in Canada have affected employee benefits, particularly pensions.

Quebec has introduced extensive amendments to its Supplemental Pension Plans Act, effective January 1, 1990. While the amendments in large part bring Quebec into the consensus regarding pension reform, the resulting act has a number of unique provisions that will either make the administration of private plans more complicated or impose more onerous conditions than elsewhere. Some of these provisions may be altered before the amendments receive third reading and become law.

Prince Edward Island has introduced its first Pension Benefit Act, but it has not yet been enacted. The act, which follows the consensus fairly well, is not likely to become effective before January 1, 1990, at the earliest. This leaves British Columbia as the only province without pension legislation, although operative dates for the New Brunswick and Prince Edward Island legislation have not yet been established.

Even more significant has been Ontario's proposal for mandatory indexing in defined-benefit plans for benefits accrued after December 31, 1990. In the proposed legislation, the formula required is 75% of the increase in the Consumer Price Index, minus 1%, with a maximum increase of 5%. There is a limit on the amount of pension that need be indexed. Defined-contribution and multi-employer plans must offer indexing as an option subject to an actuarially reduced pension.

The proposed legislation also imposes restrictions on the withdrawal of surplus accumulated before 1987 unless benefits accrued prior to that date also are indexed. There are other incentives to include indexing on benefits accrued before 1991. Much of the legislation is extremely complicated, although perhaps no worse than ERISA and Internal Revenue Pension rules in the United States.

Both Ontario and Quebec have imposed moratoria on the withdrawal of surplus from pension plans, and where it is allowed, it is not easy. Several court decisions have ruled against the employer withdrawing surplus, and one recent decision ruled that a contribution holiday was also prohibited. These rulings, however, have been based on specific provisions of the pension plan or trust agreement and not on statute law.

With the increasing restrictions on access to pension plan surplus, plan sponsors are hardly encouraged to adopt conservative actuarial assumptions and funding methods. If this occurs, it will not be in the interests of plan members. Legislation that was supposed to benefit plan members may end up reducing their security.

Mandatory indexing and restrictions on access to surplus will obviously have an effect upon pension expense, as defined in the Handbook of the Canadian Institute of Chartered Accountants.

There also are proposed changes in the Federal Unemployment Insurance program (unlike in the United States this is a federal, not a provincial, responsibility). Workers now have to work longer to be eligible for benefits in areas with low unemployment rates. The plan must be financed exclusively by employee and employer contributions, and no federal funds will be available to make up the difference except in extraordinary circumstances. This is certain to lead to higher contribution rates and perhaps a demand for experience rating of employers.

Tax

The revised higher contribution limits for money purchase pension plans, deferred profit-sharing plans, and individual registered retirement savings plans (RRSP), has been put off still another year, until 1991. So has the complicated calculation of pension adjustments (PA) to determine the value of benefits under defined-benefit plans that are needed to determine the allowable contributions to RRSP for members of such plans. The postponement may result from either a reluctance to lose the tax revenue in which the higher contribution limit will result, or the realization that the PA system is almost impossibly complicated.

The latest, and supposedly last, in the series of Information Circulars, giving the administrative rules under the Income Tax Act for pension plans, was released in December. They are to be replaced by provisions in the act itself. While draft legislation was released in the spring of 1988, legislation has not yet been introduced into parliament itself, though it is rumored to be coming this autumn.

The budget introduced this spring taxes back the entire universal old age security pension (OAS) (currently $3,965 per year) for those with high incomes. The tax is limited, however, to 15% of net income over $50,000 and is to be phased in over three years. There has been much opposition from social activists. (It is nice to know that they worry about the wealthy!) This is not likely to have much effect on pension plan design. Few plans in Canada have a direct offset with the OAS, and pension reform explicitly prohibits such offset integration for service after the operative date. Further, the tax-back will apply to relatively few people. It does reduce the income of the wealthy over 65 and will affect the retirement planning of those with above-average incomes. I shall probably postpone my retirement for a year or so.

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Proposed amendment defeated

The proposed amendment to Article III, Section 2, Subsection c, of the Society's Constitution was not adopted during the recent election because the vote to amend was less than two-thirds. Out of a total of 4,021 Fellows who voted, 59.3% voted to amend while 40.7% voted not to amend. The Board of Governors will discuss the results of this vote at its meeting this month.