MERCER

3 May 2013

COMMUNIQUÉ

THE 2013 ONTARIO BUDGET

On 2 May 2013, the Honourable Charles Sousa, Ontario's Minister of Finance, tabled the government's budget. There are a few new measures relevant to registered pension plans, and there is a change to the Employer Health Tax exemption.

General pension reforms

Work continues on certain pension reforms for the private sector that were announced in previous budgets. These include:

- new rules respecting the transfer of assets and liabilities between pension plans;
- eligibility criteria and disclosure requirements for contribution holidays;
- disclosure to former members and pensioners, including annual statements;
- a funding concerns test for plans that are exempt from solvency funding requirements, to determine when annual valuations are required; and
- a framework for collectively bargained multi-employer target benefit plans, including those that are multi-jurisdictional.

Some new elements of pension reform were announced. The government intends to:

- develop a regulatory framework for single-employer target benefit plans;
- allow certain single-employer pension plans (SEPPs) to be converted to jointly-sponsored pension plans (JSPPs), and for assets to be transferred from SEPPs to JSPPs; and
- update the regulations to reflect certain changes to standards issued by professional bodies.

It will be interesting to see how these measures are ultimately implemented and whether they create useful new avenues for managing risk in defined benefit pension arrangements. On a related note, the government stated that the *Dodd-Frank Act* and Basel III regulations, as well as proposals such as financial transaction taxes and mark-to-market derivatives taxes, could make it more difficult for the government to hedge certain risk exposures and increase costs. These same issues may be faced by pension plans as they implement strategies to mitigate their risk exposures.

The government will consult with stakeholders about the adoption of pooled registered pension plans for Ontario-regulated employees and self-employed individuals with emphasis on ensuring that the costs for participants are low and the members are adequately protected. The government will also continue its support for a modest, fully funded enhancement to the Canada Pension Plan.

Carrigan

The government will review the recent ruling of the Ontario Court of Appeal in *Carrigan* v. *Carrigan Estate* (Carrigan) and propose amendments to the *Pension Benefits Act*. This probably means that the government intends to reverse Carrigan. (See our Communiqué of 14 November 2012 for details about the problems caused by Carrigan.)

However, in the meantime, affected pension plan members may want to change their beneficiary designations and plan administrators need to consider notifying their Ontario active and deferred plan membership about Carrigan. Even if the government intends to reverse Carrigan this will take time, and there is no guarantee that the amendment will be made or that it would be retroactive.

Public-sector pension reforms

Some pension reforms for the public-sector that were announced in the 2012 budget are reaffirmed: moving to 50-50 cost sharing within five years for its single employer plans (SEPPs), supporting joint sponsorship for SEPPs, and eliminating legislative barriers to the creation of new jointly sponsored pension plans (JSPPs) in the electricity sector.

Pursuant to the report on pooled asset management by Mr. Morneau released in November 2012, the government will establish a working group to advise on design, governance and transition issues for creation of a new pooled asset management entity. The entity would oversee pooled asset management for public-sector pension plans. The working group is to report to the government later in 2013 with a detailed implementation plan. (See our Communiqué of 29 January 2013 on the Morneau report.)

Progress is being made on regulations to implement the temporary opportunity to allow active employees in certain public-sector plans whose benefits remain in a prior employer's plan after a divesture, to have their past service benefits transferred to the successor employer's plan. The window is not yet open and is set to close on 1 July 2015.

Some new objectives are announced in this budget. These are: permitting public-sector SEPPs to transfer assets to JSPPs, consideration of additional solvency funding relief for its public-sector SEPPs that have taken action to become more sustainable, and establishing a working group of employers and employees to address electricity sector pension challenges in order to move toward a more sustainable framework.

Employer Health Tax

The government will increase the current Employer Health Tax (EHT) exemption for private sector employers with Ontario payrolls, from $400,000 to $450,000 beginning 1 January 2014. The exemption would be adjusted for inflation every five years based on the Ontario Consumer Price Index.

Additionally, beginning 1 January 2014, the EHT exemption will be eliminated for private sector employers with annual Ontario payrolls exceeding $5 million. However, registered charities with annual payroll exceeding $5 million will continue to receive the exemption.

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