



Lump sum LTD payouts may not be taxable

The Supreme Court of Canada has ruled that lump sum payouts to settle long-term disability (LTD) obligations are not taxable to employees under certain conditions.

The decision involved a case of a long-term disability recipient whose benefits were terminated by an insurer after eight years. She sued the company stating that, under the terms of her company's long-term disability policy, she was entitled to continue to receive the benefits. Instead of settling the issue through litigation, the insurer agreed to pay the claimant a lump sum settlement of \$105,000 in return for a release from all future obligations and liability.

The federal Ministry of National Revenue claimed the settlement amount was taxable since it was designed to "replace monies payable on a periodic basis pursuant to a disability insurance plan", a taxable item under Section 6(1)(f) of the Income Tax Act.

In a lengthy ruling, the Court considered whether lump sum payments from disability plans constitute the settlement of on-going disability income obligations (which would make them taxable) or whether such payments amount to separate legal settlements outside of LTD policies (which would make them non-taxable, since legal settlements are not subject to income tax.)

In a tight 4-3 decision, the court ruled that since lump sum payments do not *have* to be made in order to comply with a disability policy, they represent "an amount paid to obtain a release from the liability" and, therefore, are not taxable.

"...A lump sum payment is, in short, an amount paid to extinguish any liability for claims that might be asserted because of a disability policy," said Justice J.J. Charron, "It is not, however, a payment made in accordance with or in compliance with that policy and is not made in pursuant to it."

For both plan sponsors and plan members, the February 25 ruling reinforces the need to clearly identify the purpose of any lump sum payments involving LTD claims. Based on the ruling, if they are made to settle payment arrears or obligations within the contract, then it is reasonably safe to assume that they would be taxable for the recipient. If, however, they are designed as a separate legal settlement outside of the contract that releases the insurer or plan sponsor from the LTD obligation, then it may be considered non-taxable.

The ruling may make LTD administration more complicated. For example, if an employee agrees to accept a lump sum settlement in return for a release of all liabilities or obligations from the insurer, does he/she have the right to resume the it

LTD coverage upon his/her return to work? If the insurance company has been released from the obligation of covering the employee, it may have the right to decline coverage for him/her later on.

As well, since the nature of the lump sum settlement could range from the settlement of a delayed or deferred claim to a legal side agreement outside of the terms of the contract, plan sponsors are urged *not* to provide advice to employees on such issues. Incorrect advice could have major tax implications for the individual and expose the plan sponsor to legal liability.

The Supreme Court ruling can be found through the Supreme Court of Canada website at www.scc-csc.gc.ca under *Judgements*. Follow the links to 2005. Then, click on *Judgement in Appeal, February 25, 2005*. ■



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Pension contribution limits

Following are the latest registered pension and retirement savings plan contribution limits, based on the February 2005 federal budget:

Year	Defined contribution plan limit	Defined benefit plan limit	RRSPs
2006	\$ 19,000	\$ 2,111	\$ 18,000
2007	20,000	2,222	19,000
2008	21,000	2,333	20,000
2009	22,000	2,444	21,000
2010	Increase to be based on increase in average industrial wage	1/9 of defined contribution limit.	Increase to be based on increase in average industrial wage.

Now, that's a Cadillac health care plan

As one of the world's largest companies, the General Motors Corporation's generous employee health care plan is bound to both big and relatively expensive.

How big?

According to reports published in the *Globe & Mail*, GM expects to spend US \$5.6 billion on health benefits in the US alone -- more than it expects to spend on steel.

Covering 1.1 million people, the \$5.6 billion tab for employee health benefits represents an \$800 million increase for the company from 2004. It also makes the automaker the largest health care provider in the United States.

According to the report, GM's employee benefits plan accounts for approximately \$1,500 of the cost of each new car. In contrast, Toyota, GM's biggest foreign competitor, spends about \$300 per car on benefits.

Pressures are being exerted to reduce costs by cutting benefits or introducing programs where employees pay a portion of their health care premiums. However, hammering out an agreement on this with the United Auto Workers (UAW) will not be easy, especially in Canada.

"It costs about \$4 per hour less to provide the same health care package for a Canadian worker versus a US worker," says Canadian Auto Workers President Buzz Hargrove. "...The companies have tried to increase premiums at each round of bargaining and we've never accepted any increases."

The next round of bargaining for the three big North American auto manufacturers begins in 2007. ■

Ontario government leans backward on physio

Plan sponsors in Ontario can be forgiven if they are confused about the latest changes to that province's health care coverage.

Effective April 1, 2005, the Ontario government will partially reverse its July 2004 decision to eliminate physiotherapy coverage under the Ontario Health Insurance Plan (OHIP). The province will now cover physiotherapy services for the following groups:

- seniors age 65 and over;
- children age 19 and under;
- residents of long-term care facilities;
- all those requiring physiotherapy in home through a community care access centre;
- everybody receiving physiotherapy after overnight hospitalization; and
- those requiring physiotherapy who are enrolled in programs offered by the Ontario Disability Support Program, Ontario Works, the Family Benefits Program and the Workplace Safety Insurance Board.

The service remains de-listed for the rest of Ontarians aged 20 to 64.

In its July 2004 budget, the province removed routine eye examinations, physiotherapy and chiropractic services from the province's health insurance plan. After public protests, the government reversed itself and allowed eye examination coverage for those with certain medical conditions (see the March 2005 edition of the *Coughlin Courier* for more information on the change to eye examination coverage.)

Chiropractic services continue to be de-listed by OHIP. ■

Fat facts on reduced life spans spark debate

The fat has bit the fire.

As foretold in the March 2005 edition of the *Coughlin Courier*, predictions that the average lifespan of Americans will decline in the next 50 years due to high obesity rates has sparked intense debate in the social service and medical communities.

The debate follows the March 17, 2005 publication in the *New England Journal of Medicine* of a study by University of Illinois epidemiologist Dr. Jay Olshansky indicating that the average lifespan of Americans will decline by two to five years due to the medical complications resulting from obesity.

If Dr. Olshansky's predictions hold, it will be the first time in 200 years that the current generation of children will have shorter life expectancies than their parents.

According to the report, up to two-thirds of Americans are overweight; one-third are medically obese, having more than 30 per cent of their body weight as fat. (Canadian statistics are slightly more favourable. While approximately the same percentage of people are overweight, the rate of obesity is approximately half that of the US.)

"We think today's younger generation will have shorter and less healthy lives than parents for the first time in modern history, unless we intervene," Dr. Olshansky told the media after publication of his study. *"This isn't speculation, we're not talking about some hypothetical new infectious disease that may or may not sweep across the globe... The children who are extremely obese are already here."*

While the Olshansky study may be the first to assess the impact of rising obesity rates on life spans, it is supported by increases in type 2 diabetes, kidney failure, strokes, heart

and other diseases. According to report co-author, Dr. David Ludwig of the Children's Hospital of Boston, while obesity rates have doubled in the past 25 years, the rate of childhood diabetes has increased 10-fold during that time.

"It's one thing for an adult 45 or 55 to develop type 2 diabetes and then experience the life-threatening complications of that -- kidney failure, heart disease, stroke -- in their late 50s or 60s," he asserted, *"But for a four or six-year-old who is obese to develop type 2 diabetes at 14 or 16 raises the possibility of devastating complications before reaching age 30."*

According to the Olshansky report, the increased rate of obesity has already reduced the life span of the average American by four to nine months. That is more than the effects of homicides, suicide and accidental deaths combined.

"We're in the quiet before the storm," Dr. Ludwig stated. *"It's like what would happen if suddenly a massive number of young children started chain smoking. At first you wouldn't see much public health impact. But, years later, it would translate into emphysema, heart disease and cancer. There is an unprecedented impact of obesity at younger ages without much public health impact. But when they start developing heart attacks, strokes, kidney failures, amputations, blindness and death at younger ages, then that could have a huge effect on life expectancy."*

Among the public health impacts also predicted by Dr. Olshansky will be the saving of the US Social Security system from bankruptcy. Fewer survivors will be around to collect its benefits. However those savings will be more than offset

by increased health care expenses.

Critics have emerged to challenge the report at several levels. They range from the National Association to Advance Fat Acceptance, which accuses the study of attempting to "demonize" fat people, to the Centre for Consumer Freedom, a non-profit group representing the food and restaurant industry. It says the obesity issue has been exaggerated and blame laid at the doorstep of the fast food industry.

Some members of the medical community, such as Columbia University obesity researcher Dr. Rudolph Leibel, and Dr. James Vaupel, head of Germany's Planck Institute for Demographic Research, warn that the Olshansky report fails to take into account the expected advances in medical science and public health. Meanwhile, the US National Institute on Aging concedes the Olshansky projections are "possible but unlikely."

For Canadian plan sponsors, the Olshansky report offers a sobering view of the future. With Canadian rates of obesity also at record levels, there is potential for dramatically increased levels of obesity-related illnesses and claims among both plan members and their dependants. A worse case scenario could involve multiple claims from a "double cohort" of baby boomers with age-related illnesses and younger members of the workforce with serious obesity-related disorders.

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Fat facts on reduced life spans spark debate

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While public education programs could help reverse the trend toward obesity, as they did for smoking, some employers may consider taking a more aggressive approach, such as providing financial or other incentives to employees who maintain healthy lifestyles. Others may also introduce coverage maximums, deductibles, cost-sharing or other restrictions to contain health plan costs.

In any event, the first possible reduction in life span in two centuries is sure to spark more debate in the health community and the workplace. ■

Saskatchewan now tracks all prescriptions

Saskatchewan is now collecting information on all drug prescriptions dispensed in that province.

Effective January 28 of this year, all prescription information must be filed with the Saskatchewan Ministry of Health, regardless of health care provider or whether the drug is covered under a group health care plan.

The new measure is designed to prevent prescription drug abuse and confusion in cases where patients receive a number of prescriptions from various medical professionals.

Prior to this year, Saskatchewan only monitored prescriptions of those covered by the provincial drug plan. No information was collected for people not covered by a drug plan or those covered by other programs such as the federal government's drug plans for veterans, residents of first nations and the military. ■

Bextra follows Vioxx off the market

Another cox-2 pain reliever has been withdrawn from the market.

Health Canada has asked Pfizer Canada to discontinue sales of its popular drug Bextra after regulators in the US and Europe pulled the drug from their markets.

The withdraw follows the earlier sanctioning of Vioxx, a popular arthritis medication produced by Merck & Co. (See the December, 2004 and March 2005 editions of the *Coughlin Courier* for background.) Like Vioxx, Bextra is used for the treatment of osteoarthritis, rheumatoid arthritis and other conditions. In the US, both Vioxx and Bextra were linked to increased incidents of heart attacks and strokes, especially among the more vulnerable members of the population such as the elderly. As well, at least seven cases of severe allergic reaction have been linked to Bextra, according to reports published in the *Globe and Mail*.

Health Canada also reports that it is considering placing usage restrictions on Pfizer's other cox-2 medication, Celebrex, another leading arthritis medication. If it too is withdrawn, or its use restricted, then cox-2 medications would be virtually eliminated from the market. Arthritis patients will be forced to switch to alternative medications or return to traditional ASA-based treatments. ■

PPN update

The following pharmacies have joined the Coughlin & Associates Ltd. Preferred Provider Network.

Wallace's Drug Store Ltd.,
27 Dundas St. East, Napanee.
Their phone number is 613-354-3321.

Axis Norwest Pharmacy at 16-831 Norwest Road in Kingston.
Phone 613-389-2400.

Global Drug Mart of 130 Waverley Road, Bowmanville.
They can be reached at 905-623-2333. ■



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Ottawa, Quebec agree on parental benefits

The federal government and the Quebec provincial government have hammered out an agreement that will allow the province to operate its own parental care program, beginning January 1, 2006.

Under the terms of the March 1, 2005 agreement, the federal government will reduce Employment Insurance premiums for Quebec residents and businesses so that the Quebec government can collect the difference to pay for its own parental care program. The premium reduction will generate approximately \$750 million for the Quebec plan. As well, the federal government will contribute an additional \$200 million to the plan in the first year to fund the plan's start-up costs.

The federal government will also pay an extra \$375 million to the plan in 2006 to cover maternity and parental leave claims originating in 2005.

The agreement guarantees that parents will continue to receive benefits under either the federal or Quebec plan if they move to another province or territory. However, individuals cannot draw from both the federal and Quebec plans at the same time for the same purpose.

Both plans will continue to use the federal Record of Employment form and Social Insurance Number to track and administer their programs. ■

40-year-old CPP healthier than ever

The Canada Pension Plan (CPP) marked its 40th anniversary this past March.

Thanks to aggressive changes to its contribution formula and investment policies, the government pension plan now boasts that it's in better shape financially than ever before. In fact, it now has the resources to meet its obligations to 2050.

According to the latest CPP actuarial report, its assets are expected to increase from today's level of \$68 billion to \$1.5 trillion in 45 years, provided the current employer-employee joint contribution level remains at 9.9 per cent of yearly maximum pensionable earnings (YMPE.)

"The legislated contribution rate of 9.9 per cent is sufficient to pay for future expenditures," says CPP Chief Actuary Claude Menard. "...It is projected that there will be more inflows than outflows to the plan over the entire (45-year) projection period."

As well, the pension's ability to invest in equities, rather than low yielding government debt instruments, is also expected to strengthen the plan's earnings over the long term. Even using a conservative assumption of a four per cent annual return over the next 40 years will yield the CPP enough revenue to pay its future benefit obligations.

"This clearly illustrates the importance of investment earnings as a source of revenues to the plan," Mr. Menard says.

The relative health of the Canadian universal pension plan is a sharp contrast to the situation in the United States. Experts there predict that its Social Security plan will go insolvent in 2016. The US Congress has not been able to agree to funding increases or benefit cuts to help the plan cope with the expected wave of benefit claims from retiring baby boomers beginning around 2010. ■

Paramed use jumps 33% from 1995

One in five Canadians aged 12 or older uses paramedical services, Statistics Canada reports.

According to the government statistics gathering agency, that number represents a 33 per cent jump from 1994-95, when only 15 per cent of the population reported using the services.

The most popular paramedical services used were:

- chiropractors, used by 11 per cent of Canadians;
- message therapists, eight per cent;
- acupuncturists, two per cent; and
- naturopaths and homeopaths, two per cent.

Women tended to use paramedical services more often than men, the agency says. As well, those with higher incomes tended to use them

more than those with lower incomes. A total of 26 per cent of high-income individuals surveyed reported using paramedical practitioners compared to 13 per cent in the lowest income group surveyed. Similar results were reported among post-secondary graduates when compared to those with less than a high school education.

For plan sponsors, the Statistics Canada findings can serve both as a rough benchmark to measure their own plan experience and as confirmation that as alternative medical treatments become more accepted, greater use of paramedical services can be expected. ■

FAST FACTS

The Harvard Medical School plans to survey more than 100,000 Canadian workers to gauge the impact of depression on the workforce. It hopes to document the cost and potential benefits of early treatment of the disorder, particularly among those in their prime working years. ■

In 2003, there were more than 40,000 musculoskeletal injuries to workers in Ontario alone. Musculoskeletal incidents account for 40 per cent of reported lost time accidents. Over 10 per cent were a result of repetitive strain. ■

Comparative return on equity of 214 Canadian companies, according to Benefits Canada magazine:

- Among those that provided performance bonuses to their CEOs: 30.6 per cent.
- Among those that paid no bonuses: 6.0 per cent. ■

Percentage of companies listed on the Toronto Stock Exchange that provided information on their executive compensation:

- In 2002: 52 per cent.
- In 2003: 80 per cent. ■

Assets in trustee pension funds grew by 1.1 per cent in the third quarter of 2004 to \$663.7 billion. The increase marked the sixth straight quarter of growth since early 2003, when pension assets reached new lows and the liquidity of many funds was questioned. Approximately 4.5 million Canadians have their retirement savings in trustee pension funds. ■

Workers over the age of 55 now account for more than one-third workforce growth, Statistics Canada reports. With an annual growth rate of 4.7 per cent, the age 55 to 59 segment is the fastest growing segment of the country's labour force, the statistics gathering agency says. While the number of workers over the age of 55 has jumped by 19 per cent since 1998, the number in the 25 to 44 age range has declined for seven years in a row. ■

Back to basics seems to be the message from Statistics Canada's latest labour report. In terms of employment growth so far this decade, the nation's leading industries were construction, at 18 per cent; mining, 17 per cent; and real estate, 10 per cent. The number of jobs lost by the computer and electronics industry, according to Statistics Canada: 45,000. The unemployment rate in the mining industry was listed at 4.5 per cent; the construction industry, 8.6 per cent. ■

A study of 150,000 employees indicates that depression was the most frequent diagnosis in health claims paid by employers, according to a report released by Warren Shepell, a major EAP provider. Anxiety disorders were the third most frequent diagnosis while bipolar disorder was the fourth. Depression also ranks second only to advanced cardiovascular disease for total days lost to hospitalization or disability, the report says. ■

The number of medium to large American companies that pay 100 per cent of their workers' benefits premiums has shrunk to 17 per cent from 29 per cent in 2000, according to reports published by the International Foundation of Employee Benefit Plans. The remaining US companies that fully pay for family coverage has been reduced by almost half, from 11 per cent in 2000 to six per cent today. *"Employers simply can't afford the benefits they have promised,"* says Helen Darling, president of the National Business Group on Health, a Washington-based organization representing larger employers. ■

Research by the Manitoba Centre for Health Policy indicates that five per cent of the population accounts for 40 per cent of all drug expenditures. On average, high cost users take 12 prescription drugs and had more chronic medical conditions that often included combinations of heart disease, diabetes, cancer, arthritis, depression and schizophrenia. In 2001, Manitobans spent \$328 million on prescription drugs with high cost users accounting for \$135 million of that amount. ■

Effective April 1, the basic Old Age Security (OAS) pension for those age 65 and over was increased to \$473.65 per month. The maximum Guaranteed Income Supplement increased to \$562.93. ■