



August 20, 2018

via email to: [FIN.Pensions-Pensions.FIN@canada.ca](mailto:FIN.Pensions-Pensions.FIN@canada.ca).

### Submission: Consultation on Canadians' Unclaimed Pension Balances

MEBCO supports that the Federal Government provide a voluntary support program for Canadian pension plans that cannot locate members or who have unclaimed pension balances.

MEBCO supports that the Federal Government provide both a registry to record the name of the unlocated person and the applicable entitlement and plan information - name, registration number and contact information. MEBCO supports that the Federal Government have a financial depository for money to be received for unlocated persons.

MEBCO would not support a system that requires the entitlements of unlocated members to be paid to the Federal Government – this view is held primarily because current pension legislation which persists in most provinces has a windfall effect for a person who cannot be located because the applicable commuted value is calculated on the basis of solvency factors. Solvency factors benefit the person leaving the plan at the expense of the plan's active and retired members. Requiring benefits to be paid on this basis will only worsen the financial position of a pension plan.

### About MEBCO

MEBCO was established in 1992 to represent the interests of multi-employer benefit plans (MEPs) in Canada. MEBCO advocates on behalf of all stakeholders involved with MEPs, including union and employer trustees, independent and professional trustees, professional third party administrators, non-profit or "in house" plan administrators and professionals including actuaries, benefit consultants, lawyers, investment managers, and chartered professional accountants. MEBCO's Board of Directors is composed of volunteer representatives of these groups, and is responsible for identifying, addressing, and advocating with respect to all issues impacting multi-employer plans in Canada.

The balance of our submission responds to the questions asked in the Consultation on Canadians' Unclaimed Balances issued June 22, 2018. MEBCO would be pleased to address any questions that you have in respect of our constituency – multi-employer pension plans.

### **Questions: Proposals for an Unclaimed Pension Balances Framework**

***Do unclaimed pension balances and or unlocatable beneficiaries pose other issues for terminated and ongoing plans than those identified above?***

In addition to the mentioned administrative burden, terminated plans may also eventually have no immediate contact for unlocated beneficiaries – the governance and operational systems having dissolved upon, say, the purchase of annuities for unlocatable persons. The issue is that the eventual beneficiary may have nowhere to go to find information.

**Can plan sponsors or administrators of ongoing plans provide an estimate of the number of unclaimed pension balances and unlocatable beneficiaries in their plan?**

Most plans should be able to estimate these factors, provided that clear definitions are provided.

The challenge may be that many plans may not have carried out a full search process for unlocated beneficiaries if a payment has not yet fallen due.

### **Questions: Transfers to the Designated Entity**

***What are examples of effective search methods/techniques?***

- Notices in local and national newspapers
- Notices on union/job site bulletin boards
- Verification with last known employer
- Social media such as LinkedIn, Facebook, Canada 411
- Informal searches through unions
- Location services such as skip-tracers
- Credit services such as Equifax.

***What seems like a reasonable minimum time period to make appropriate efforts to search for a plan beneficiary?***

One year prior to the date a payment falls due and one year following the date the payment falls due is a reasonable time for efforts to be taken to search for a plan beneficiary.

***Should there be a minimum time period before eligible unclaimed pension balances may be transferred to the designated entity?***

As noted MEBCO does not support mandatory transfer of unclaimed pension balances

except in the case of a terminated plan. For terminating plans the unclaimed balances should be transferred, and certified with the regulator as such as part of the pension plan's operational steps during wind-up.

***What necessary criteria, if any, should be required to obtain OSFI's authorization?***

If an unclaimed pension balance is to be transferred to OSFI the applicable plan should provide evidence that it has terminated and that the plan administrator has carried out appropriate steps to locate the plan beneficiary. Guidance as to appropriate steps might be provided by OSFI to ensure a minimum standard but must have reference to the size and resources of the applicable pension plan.

**Questions: Information Provision**

The consultation paper listed the following to provide the following as prescribed information to be given upon the transfer of the applicable unclaimed balance:

- The date of the transfer;
- The name of the person who accrued the pension balance ("the person") and, if applicable, the name of the survivor or designated beneficiary;
- The recorded address of the person;
- The date of birth of the person;
- The social insurance number of the person;
- The amount of assets related to the pension benefit credit and any portion of surplus for which the person is eligible;
- The name and registration number of the pension plan, as at the date of transfer;
- The recorded name of the plan sponsor (i.e., employer) of the pension plan under which the balance was accrued; and
- The name and address of the administrator of the pension plan under which the balance was accrued, as at the date of transfer, if different than the plan sponsor.

***What are your views on plan administrators having to provide the proposed information to the designated entity, and having the proposed information posted publicly?***

We suggest that the “recorded address” of the person be the “last recorded address” as the recorded address is likely not valid or in use by the plan administrator, particularly if mailed communications have been returned as undeliverable.

If the funds would have been unregistered (ie falling under the small pension rule) at the time of the transfer to the designated entity this should be disclosed.

A terminating pension plan should also be required to provide its wind-up document as part of the transfer of unclaimed balances in the event of follow up questions since the plan administrator may not be available post-transfer. If the plan administrator will continue to operate as a company/union etc. then their name and contact information should be given.

In addition to information about distribution of surplus, having the wind-up report would also indicate, for a pension plan that was not fully funded on termination, any benefit reduction applicable to the beneficiaries.

***Do plan administrators have access to all the proposed information to provide to the designated entity?***

In the case of multi-employer pension plans information such as date of birth may not be available. If the pension plan received information from contributing employers using an identifier other than social insurance number (SIN) (ie union registration number or unique plan number) the SIN may not be available if the beneficiary did not make a proper registration with the pension plan. This is not uncommon following amendment of legislation to provide for immediate vesting where a very short term employee would have an entitlement but who may have left the work force very soon after accruing a benefit.

**Questions: Claiming Funds from the Designated Entity**

***Are there others who should be eligible to claim funds from the designated entity?***

In addition to the direct beneficiary, his/her survivor, persons with power of attorney or legal mandate to represent the owner and individuals representing the owner’s estate, unclaimed funds may be subject to garnishee for non-payment of child or other family support payments if the funds could have been accessed for this purpose under the applicable legislation.

***What are your views on the proposed prescription periods, including views on what would be an appropriate prescription period and threshold for small balances, and the appropriateness of full alignment with the framework for unclaimed bank balances?***

An appropriate prescription period would be not less than ten (10) years and not more than 30 years. The prescription period could be tied to the balance, smaller balances (ie those under \$100) and 30 years being the maximum. If the pension plan paying the funds to the regulatory authority as unclaimed is still operational they may be given the opportunity to recover the funds rather than leave them under the control of OSFI if they are about to be ‘written off’.

## **Question: Interest and Fees**

***Are there other reasons to support crediting a reasonable rate of interest on amounts claimed from the designated entity, or charging a cost-recovery administration fee?***

Even though it is proposed that no interest be credited nor any administration fees charged, MEBCO believes that Interest should be credited because unclaimed balances would be paid to the designated entity in trust for the beneficiary. MEBCO also believes that a reasonable administration fee should be charged on payment of the unclaimed balance that represents the effort required to manage the balance. MEBCO does not believe the administration fee should be tied to the amount of the balance.

## **Questions: Tax Obligations**

***Which entity (the plan administrator or the designated entity) should be required to withhold and remit the tax?***

The designated entity should be required to calculate, withhold, remit and report the tax.

***Should the tax be payable at the time that the unclaimed balance is transferred to the designated entity?***

No. It should be paid upon payment to the beneficiary and by the designated entity.

***What is the appropriate rate(s) of tax?***

The rate should be as published by the taxation authority based on the amount of the balance.

***Should the unclaimed pension balance become an “unregistered” account when it is paid to the designated entity?***

In order to ensure that all beneficiaries are treated equitably money should not be unregistered when transferred to the designated entity unless it would have been unregistered if paid by the pension plan.

***Do you agree that remitting a pre-paid tax is a simple, efficient and practical approach to the taxation of unclaimed pension benefits?***

No, the pre-paid approach introduces further complexities for the pension plan that cannot locate a beneficiary.

**Do you agree that the pension plan administrator is in the best position to report, withhold and remit the pre-paid tax to the CRA?**

No. The designated entity is in the best position to report, withhold and remit the tax to CRA upon payment of the unclaimed balance.

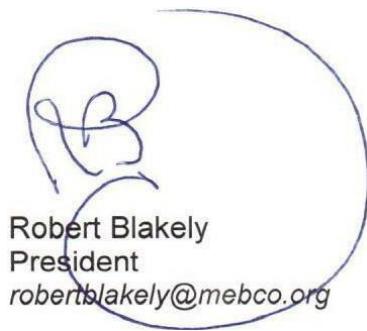
***What would be an appropriate rate of tax to apply on payments of unclaimed pension balances to a designated entity?***

MEBCO does not agree that the pension plan should withhold tax on an unclaimed balance before remitting it to the designated entity.

***Should the account held by the designated entity (net of the taxes paid) be an unregistered account?***

As noted earlier if the account would have been registered when held by the pension plan it should be registered by the designated entity.

Best regards



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