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SECTION: Life Income Fund/Locked-In Retirement Account

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TITLE: Amendments to the ITA (Canada) Regulation and Effect on LIFs

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An article appeared in the December 1992 issue of the *PCO Bulletin 3/3*, page 1, on the Ontario Life Income Fund (the "LIF"). The opening statement cautioned that some of the information contained in the article was subject to proposed amendments to the *Income Tax Act* (Canada), (the "ITA"). This article provides background information concerning the proposed amendments to the ITA Regulation and their potential effect on registered pension plans.

Subsections 147.3 (1) and (4) of the ITA provide the authority to transfer the value of a benefit from a registered pension plan to another registered plan or retirement savings vehicle, such as an RRSP, on a tax-exempt basis. Currently, neither subsection permits the direct tax-free transfer of the value of the benefit from a registered pension plan to a Registered Retirement Income Fund ("RRIF"). Under Revenue Canada rules, Ontario's LIF is simply a RRIF that reflects the requirements of the ITA and also, the requirements of the Regulation under the *Pension Benefits Act* (the "PBA"). The federal Minister of Finance has released a draft of the proposed amendments that will be in effect when the change to the Regulation is made.

Ontario's LIF Regulation established the authority for a plan administrator to provide terminating members, whose age qualifies them for a LIF purchase, with an option to elect to transfer the value of a locked-in benefit from a registered pension plan to a LIF. However, a direct transfer cannot be processed until proposed changes to the ITA Regulation are made. In addition, each pension plan must provide for, or be amended, to provide for a direct tax-free transfer to a LIF.

Revenue Canada has indicated that terms in pension plans such as "...amounts may be transferred to another plan ..." would be sufficient to allow for the transfer to a LIF. Plans containing language that explicitly refers to "...another registered pension plan or RRSP", must be amended to add a specific reference to a RRIF/LIF. Generally, the portability provisions in most plan documents have been written to refer explicitly to a registered pension plan or an RRSP and therefore, it is expected that most pension plans must be amended.

Assuming that the ITA Regulation is amended to allow a direct tax-free transfer to a RRIF/LIF, a plan administrator should not make the transfer unless the plan provides for it in language acceptable to Revenue Canada. If such a transfer does occur in the absence of permissive language in the plan, the registration of the pension plan would be revocable under the ITA.

Until the ITA Regulation is amended, a direct tax-free transfer from a pension plan to a RRIF/LIF is not available to

terminating plan members. In the meantime, however, a LIF may be accessed by indirect transfer to a locked-in RRSP. It will then be possible to make a direct tax-free transfer from the locked-in RRSP to a LIF. Former plan members who want to begin receiving retirement income without using the funds in their locked-in RRSP to purchase an annuity now have another option available to them, as long as their age qualifies them to purchase a LIF.

*Please note that where the terms "value of benefits" or "benefit value" are used they include commuted values transferred from defined benefit plans and contributions, with interest, transferred from defined contribution plans.*