

Department of Finance Releases Revised Draft Legislative Proposals Relating to Employee Life and Health Trusts

On November 27, 2020, the Department of Finance released revised draft legislative proposals supporting the conversion of Health and Welfare Trusts. The revisions were done after reviewing input from stakeholders.

Background

The 2018 Federal Budget announced legislative provisions to convert Health and Welfare Trusts (HWTs) into Employee Life and Health Trusts (ELHTs). This would mean that the Canada Revenue Agency (CRA) would no longer apply its administrative rules to Health and Welfare Trusts. On May 27, 2019, the Department of Finance released draft legislative proposals to facilitate the conversion of existing Health and Welfare Trusts and invited stakeholders to provide their input. PBI, along with other industry stakeholders and clients, submitted recommendations and comments.

Provisions for the Conversion of Trusts

After considering the stakeholders' views, the Department of Finance Canada released revised draft legislative proposals that would:

- Allow existing Health and Welfare Trusts to continue to operate as such until the end of 2021;
- Permit plans to provide other types of non-designated benefits (e.g. bereavement leave and jury duty leaves) provided that these comprise less than 10% of benefit costs;
- Expand the definition of designated employee benefits to include Employee Family Assistance Programs and death benefits under \$10,000;
- Add a new tax that would apply to prohibited investments held by Trusts, thus allowing such investments to be held without jeopardizing the status of the Trust;
- Extend the carry-forward of non-capital losses from 3 to 7 years, and
- Relax the restrictions in the past proposals that apply to the participation of "key employees."

While the revised proposals now allow Health and Welfare Trusts to continue to operate as such until the end of 2021, the deadline for conversion to an ELHT remains the same – December 31, 2022.

The briefing from the Department of Finance indicates that the government plans to introduce the final legislation "at an early opportunity."