COUGHLIN COURIER

JANUARY, 2006

AT A GLANCE ...

COUGHLIN & ASSOCIATES LTD.

FEATURE

Saving for retirement tops priorities, survey says

It's 2006; exactly 60 years since the birth of the first members of what would become the baby boom. And, not surprisingly, for the first time in almost a decade, Canadians say that saving for retirement is their top priority.

As the largest segment of the population begins to reach the qualification period for government pensions and early retirement benefits, saving for a rapidly approaching retirement is becoming the priority over other financial necessities such as debt and mortgage settlement, estate planning or general savings, according to a Royal Bank survey.

According to the survey, 38 per cent of Canadians put saving for retirement ahead of making regular debt payments, saving for a rainy day and keeping their heads above water financially.

The shift to savings has already begun, according to RBC Asset Management. The average planned registered retirement savings plan (RRSP) contribution for the 2005 tax year is $5,700, a $140 increase from the previous year -- and double that of 10 years ago.

The market value of the average RRSP is now $61,656, RBC says, up from $50,662 in 2001.

Coughlin & Associates Ltd. offers group RRSPs as well as individual retirement savings plans for the members of your organization. Contact Coughlin & Associates Ltd. for more information. Or, visit our website at **www.coughlin.ca** ■

Introducing Jackie Figley

Coughlin & Associates Ltd. is pleased to announce the appointment of **Jackie Figley** to the position of Individual Financial Services Consultant.

Jackie comes to Coughlin with over 24 years of experience in the insurance services industry including office management, agent training, sales support, administration, systems and underwriting in both the individual and group lines of business.

In her new position, Jackie will work with Coughlin clients and plan members to assist them with their life insurance requirements, estate planning and retirement savings and income needs.

Jackie is licensed to provide life insurance services in the province of Ontario. She is also licensed to sell mutual funds in the same province.

Coughlin & Associates Ltd. is Ottawa's largest employee benefits firm with 85 employees in Ottawa as well as 28 employees in its Winnipeg office. Its clients number among Canada's leading union, corporate, and public organizations, including members of the high-tech community, hospitals, school boards, municipal governments, national retailers, unions, and community organizations.

For more information on Coughlin and its services, visit its website at **www.coughlin.ca**

Jackie can be reached at 613-231-2266, Ext 251; or, toll-free, 1-888-613-1234.

Email: jfigley@coughlin.ca. ■

LEGAL UPDATES

No disclosure needed for possible amendments

Plan sponsors do not have to disclose possible pension amendments to their members, the Ontario Court of Appeal says.

The ruling stifles a suit filed by eight members of the Ontario Municipal Employees Retirement Systems (OMERS) plan who alleged that they were entitled to pension plan enhancements, despite the fact that they had begun to receive their retirement benefits. (See the June 2004 *Coughlin Courier* for background.)

The eight OMERS members retired from their positions two to seven months prior to the date the benefits enhancements were adopted, the time when the OMERS board of trustees was considering enhancing their plan's pension benefits. The members claimed to have been victims of "*negligent misrepresentation*" and said they would have continued their employment had they known they would have subsequently qualified for the improved benefits.

In April 2004, the lower courts agreed with the members, citing that boards of trustees have a fiduciary duty to disclose potential plan amendments to their members.

The Court of Appeal overturned the earlier ruling, stating that plan administrators are only required to disclose "*highly relevant*" information and that potential plan amendments could not be considered as such since they are, at best, a forecast and therefore "*speculative.*"

"*To sustain a legal cause of action, a statement (or an omission to make a statement) must relate to an ascertainable fact, as distinguished from an expectation or opinion. Therefore, failure to provide a forecast does not give rise to a valid legal complaint,*" the Court said. It went on to assert that the requirement to disclose potential changes would impose "*an unmanageable burden*" on pension plan administrators and that the disclosure process itself would have to be so limited as to be meaningless.

For plan sponsors, the ruling relieves them of publishing each and every possible change that may be considered by pension trustees over time. However, under the Pension Benefit Act, 45 days of advance notice is required when plan changes that negatively impact members' rights or benefits are finalized. ■

Quebec members not entitled to grow-in benefits

The Supreme Court of Canada has ruled that the Quebec members of a wound-up pension plan are not entitled to the same benefits as those provided to the plan's Ontario members.

The case concerns a 1992 partial wind-up of a Stelco Inc. pension plan that included members in a number of provinces. Since Stelco is Ontario-based, the plan was wound-up based on the Ontario Pension Benefits Act. Section 74 of that act says members whose age plus years of service total 55 can receive grow-in benefits to provide an income bridge for older members nearing their normal retirement date.

Stelco did not give grow-in benefits to its Quebec members since that province's pension laws do not allow them. Stelco's Quebec members then filed suit against the steel maker, claiming they were entitled to the benefits based on Section 74 of the Ontario law.

That began a 13-year battle over jurisdiction with Stelco arguing that Quebec courts had no jurisdiction in the matter and, if they did, the grow-in benefits would not apply to Quebec residents. The lower courts agreed with the company. However, the Quebec Court of Appeal disagreed and took the position that Quebec's laws did apply in the case. However, that did not mean the former employees could qualify for grow-in benefits, since those benefits are particular to Ontario's pension legislation and apply only to Ontario residents. The members then appealed to the Supreme Court.

In a complicated analysis of the issues, the Court ruled that since the Ontario Superintendent of Pensions was given ultimate authority to disburse pension assets using Ontario law as the governing jurisdiction, Stelco did not owe anything to the Quebec employees.

"*The approval of the wind-up report left the employer with no choice,*" the Supreme Court said. "*Under the Ontario Pension Benefits Act, it could not even pay benefits other than in accordance with the Superintendent's decision…The right to retirement benefits exists only if the payment of the early retirement benefit is authorized by the Superintendent.*"

Since the Superintendent authorized the use of Section 74 in the only jurisdiction where it was recognized legally -- Ontario-- Stelco's Quebec members were out of luck.

"*In the absence of such an authorization, the debt claimed from the employer does not exist,*" the Court said.

For plan sponsors and employee representatives, the ruling clarifies which laws will reign when plan wind-ups involve multiple jurisdictions. The moral: Expect pension superintendents to authorize plan wind-ups based on the host jurisdiction of the plan sponsor. ■

Wage earner program now in bankruptcy laws

Employees of bankrupt or insolvent companies got a break this autumn with the passing of the new Wage Earner Protection Act prior to the dissolution of the House of Commons.

The new law amends the terms of both the Bankruptcy Act and the Companies' Creditors Arrangement Act and allows employee wages to receive priority when companies file for bankruptcy protection.

The payment of wages will no longer depend on the total assets of the employer. Plus, employees will no longer have to wait for the conclusion of bankruptcy proceedings before they claim their wages. Under the new law, employees will be able to apply to the Minister of Labour and Housing to receive their unpaid wages as soon as the bankruptcy occurs. The money will be paid from the consolidated revenue fund. The government will then seek to recover those costs as a creditor.

Claimants will be able to recover their wages for the six-month period immediately preceding the bankruptcy, less any federal and provincial deductions, to the greater of $3,000 (the average industrial wage for one month) or four times the maximum weekly insurable earnings under the Employment Insurance program.

While the new law covers wages, salaries, commissions and vacation pay, it does not cover severance or termination payments. To be eligible for payment, employees must have been employed by the bankrupt firm for a minimum of three months.

Under the new law, unpaid wage claims will take precedence over the establishment of bankrupt employers' assets including cash, accounts receivable and inventory.

Such claims will have first priority over those of secured creditors. In addition, no restructuring plan can be filed with the courts until it contains provision for unremitted pension contributions.

For situations involving collective agreements, bankrupt companies will be able to seek court approval to renegotiate the agreement with the relevant unions. However, judges will not be able to impose new collective agreements. If the employer and the employees cannot reach an agreement, the old agreement will remain in place until the creditors accept or reject the re-organization plan containing the original collective agreement. ■

PENSIONS

Winter brings pension funding warnings

Winter is a time for weather warnings. However, as the dark season approached this year, those storm warnings were also accompanied by forecasts of trouble in the pension sector.

In early November, Bank of Canada Governor David Dodge warned that the country's pension system would have to be strengthened to protect the future health of the economy.

In an address to the Quebec MBA Association, the bank governor warned the bulk of private sector defined pension pensions are facing deficit.

"*The number of companies that have failed to deliver on pension obligations has been a wake-up call for the Canadian business community,*" he said. "*Defined benefit plans, once the flagship of benefit packages, are losing favour.*"

He went on to call for action at the federal and provincial levels to address the pension deficit issue "*for the sake of efficiency and the future health of the economy.*"

His sentiments were echoed by the C.D. Howe Institute on November 17, 2005, when it called for a "*fresh look*" at the nation's defined benefit pension plans.

"*Canada's defined benefit pensions are in trouble,*" the Institute reported in a brief entitled *Off the hook for now: Taxpayers should hope that talk of federal pension guarantees ends with the minority government*. "*Many are underfunded and exposed to the financial stresses of their sponsors.*"

However, the think tank's report warned against the establishment of government agencies to guarantee the liquidity of pension plans against plan bankruptcy.

"*A federal pension guarantee would either expose Canadian taxpayers to ill-defined and possibly huge liabilities, or push defined benefit pensions one step closer to extinction,*" it warned.

Using the experience of the US Pension Benefit Guaranty Corporation as its guide, the C.D. Howe Institute report noted that the American pension guarantor now has a deficit of $26 billion, largely from having to take over pension plans that have been poorly managed by their sponsors. Their report cites a case of a major US airline that promised to increase pensions benefits to its employees in lieu of pay increases only to go bankrupt nine months later, leaving the Guaranty Corporation with a $6.6 billion obligation.

"*This backdrop encourages managers who cannot afford higher compensation to offer higher pensions instead of wages, and encourages companies to shirk funding pensions that the government will have to pick up,*" the Institute asserted.

Despite their weaknesses, defined benefit plans are important to the Canadian economy, the institute noted, since pooling of risk and capital provides greater retirement income security to beneficiaries while directing capital to higher value investments.

"*We would miss these plans if they disappeared,*" the Institute concluded. "*On average, workers in the future will be scarcer, older and wealthier. Employers and employees will need plenty of tools to craft deals that keep people happy and working. Defined benefit plans offer workers more predictability and can be tailored to reward loyalty.*"

The third pension weather warning came through a blunt message from the Canadian Institute of Actuaries (CIA) in December stating that "*Any benefits from small cuts to the GST or income tax will be minimal compared to the financial problems many Canadians will face if Canada's employer-sponsored pension plans keep shrinking.*"

Also citing the rapid decline of defined benefit pensions in the private sector, the CIA called on all political parties to address the pension surplus ownership issue, remove the regulatory obstructions in Canada's pension laws and encourage the disclosure of meaningful financial information to plan members.

The CIA went on to call for a pension reform summit involving the political parties, plan sponsors, workers and retirees to tackle the pension issue.

"*People are worried,*" the actuarial group said. "*In a national survey conducted last month by the CIA, less than half of respondents expressed comfort with the security of their workplace pension plan.*"

"*It is not too late but it is urgent,*" the group said. ■

Individual Pension Plans (IPP), Canada's best-kept retirement secret

Get 60 per cent more into your retirement assets than an RRSP.

As a business owner or professional, you face a problem most other employees do not. How can you arrange to be provided with periodic retirement payments and build assets large enough to maintain the same lifestyle upon retirement when the rules governing RRSPs restrict you from doing so? An IPP is an individual defined benefit pension plan that permits the accumulation of greater assets; up to 60 per cent more than an RRSP.

The IPP is similar to an RRSP in that it uses an investment account that accumulates over time to provide retirement benefits. Unlike the RRSP, the IPP provides certain guarantees. The amounts are generally locked-in and may be used only for retirement purposes. Plan contributions are determined by a series of actuarial valuation reports in order to provide sufficient assets at retirement.

Key benefits of the Individual Pension Plan

- Allows for larger tax deductions; up to 60 per cent more in contributions into your retirement account.
- The IPP is an excellent way to increase retirement assets and have your company make large tax-deductible contributions.
- All costs associated with the pension plan are tax deductible to the company.
- Allows a significant tax-deductible contribution at retirement.
- Safer investment rules and limitations compared to RRSPs.
- Allows for additional tax-deductible contributions to be made by the company should the rate of return on plan assets be less than 7.5 per cent a year.
- Plan surpluses belong to the member.
- Provides pre-determined retirement benefits.
- Ability to "succession plan" when family members work in the business.
- There is 100 per cent creditor proofing of plan assets.
- No deemed disposition of plan assets upon death. Plan assets remain in the plan to provide benefits to surviving members

Who can take advantage of the IPP?

Key candidates for an IPP are business owners, their family members, key executives and professionals (i.e. doctors, dentists, accountants) with professional corporations.

The only stipulation is that the sponsoring company must be incorporated.

Who is the ideal candidate?

An owner, incorporated professional, or executive age 35 and over, and earning over $100,000 in T4 or T4PS income, is the ideal candidate. However, an IPP may also be established for candidates with lower earnings.

For a more information, or to obtain free advice on your particular situation, contact **Jackie Figley** or **Jacques Poirier** at 613-231-2266 or, toll-free 1-800-613-1234.

(Produced with permission from Gordon B. Lang & Associates Inc.) ■

HEALTH & CLAIMS

The high cost of growing wait times

Provincial health care plans are being forced to pay for their long waiting lists.

For the second time in a year, the Ontario government has been ordered to pay for surgery done in the US when the waiting list for surgery was considered unacceptable by the province's Health Services Appeal and Review Board.

In the first case, the province reimbursed a Toronto woman when she faced an 18 to 24-month wait for hip surgery. According to the Review Board, the woman would have faced "*medically significant irreversible tissue damage*" by waiting that long for corrective surgery. The 61-year-old woman's medical condition had deteriorated to the extent that she could barely walk and needed assistance for simple functions such as getting on and off the toilet.

In the second case, a London, Ontario man was reimbursed for the costs of hip replacement surgery in nearby Port Huron, Michigan, when he faced a similar problem.

Most provincial health care plans allow patients to apply to have their medical treatments in other countries covered by medicare. However, approvals tend to be rare. Tribunals such as the Health Services Appeal and Review Board can override the earlier denials and allow patients to receive care in foreign jurisdictions under the government health plan. Most people are not aware that they can apply to have foreign medical treatments paid by their provincial health plan. Since April 2002, Ontario received only 26 applications for out-of-country hip replacements. The government would not reveal how many had been approved.

The pressure to open provincial coverage to private care is especially acute among those facing hip and knee replacements or other ortho-pedic surgery in Canada, where waiting lists are "*probably the longest in the world*", according to the Canadian Orthopedic Association.

continued on page 6 ▶

The high cost of growing wait times *continued from page 5*

The most dramatic impact was seen in Quebec when Dr. Jacques Chaouilli and patient George Zeliotis successfully challenged Quebec health care regulations preventing them from giving and receiving private medical treatment rather than facing an 18-month wait for hip surgery. The case, which was settled in their favour by the Supreme Court of Canada, opened the door to private health treatment in that province. (See the July 2005 issue of the *Coughlin Courier* for background.)

For plan sponsors, the wait time issue can quickly turn complex. Insurance industry data suggest that the longer a patient has to wait for surgery, the greater the potential for long-term disability claims and longer rehabilitation periods. On the other hand, group insurance contracts are designed and priced to cover medical procedures and services not covered by government plans. With more people seeking faster private treatments either in the US, or potentially within a year or two, Quebec, plan sponsors may face inquiries or claims involving private medical services that traditionally have been covered by government plans.

While insurers would likely deny such claims, plan sponsors and administrators may be faced with the question of what course of action is really the *right* one to take. Is it better for a sick or injured employee to have major surgery at a private out-of-country facility within a few weeks of diagnosis at a high cost, or become increasingly debilitated and less productive while waiting for a medical procedure that could be years away in a public hospital?

It's a question that many plan sponsors and the insurance industry itself, will face in the coming years.

Median wait times in weeks by province

Province	Referral by GP to specialist	To appointment with specialist	Appointment with specialist to treatment
British Columbia	7.3	11.6	5.0
Alberta	9.5	8.3	5.0
Saskatchewan	8.8	24.5	7.8
Manitoba	6.9	7.8	5.5
Ontario	7.3	8.2	4.6
Quebec	9.5	9.2	5.8
New Brunswick	10.0	10.9	5.8
Nova Scotia	9.0	8.9	5.3
PEI	11.8	15.7	6.2
Newfoundland	10.3	8.9	4.2
Canada	8.4	9.5	5.2

(Source: The Fraser Institute, *Annual Waiting List Survey, 2004*)

Claims fraud draws attention

Health care claims fraud is a growing concern among plan administrators and claims payment organizations.

According to the Canadian Health Care Anti-Fraud Association, of which Coughlin & Associates Ltd. is a member, the majority of claims payment organizations report that they have become more aware of fraudulent health, dental, disability and other claims and are more closely monitoring their claims for signs of illegal activity.

Coughlin is working closely with insurers, law enforcement agencies and other third party administrators to prevent claims fraud and abuse. ■

CanGAAP is gone

Canada's Accounting Standards Board (AcSB) has announced that the Canadian Generally Accepted Accounting Principles (GAAP) for publicly traded organizations will be eliminated within the next five years.

Replacing them will be the International Financial Reporting Standards (IFRS), used primarily by Europe and Australia. The group rejected aligning Canadian accounting standards with the US GAAP rules, used by American companies and organizations registered with the US Securities and Exchange Commission.

The new rules apply only to publicly traded companies. AcSB says it is working on different rules for non-profit organizations and private companies. ■

FAST FACTS

The yearly maximum pensionable earnings (YMPE) for the Canada Pension Plan (CPP) and Quebec Pension Plan (QPP) for 2006 are $42,100, up from $41,100 in 2005. Contribution levels for both plans remain unchanged at 4.95 per cent each for employers and employers. The self-employed contribution level also remains unchanged at 9.9 per cent.

The maximum contribution level for employers and employees amounts to $1,910.70. For self-employed individuals, it is $3,831.40.

In 2006, the CPP and QPP benefit increased by 2.3 per cent over 2005 to $844.58 per month for those at age 65.

The basic Old Age Security (OAS) benefit for Canadians age 65 or older has increased by one per cent to $484.63 per month.

The individual Employment Insurance (EI) contribution rate decreased on January 1 of this year to $1.87 per $100 of insurable earnings, down from $1.95 per $100 last year. The rate for employers is $2.62 per $100 of insurable earnings. The maximum insurable earnings cap for the year remains $39,000. As a result, the maximum contribution is $729.30 for employees and $1,021.02 for employers.

The individual Employment Insurance rate for people living in Quebec is $1.53 per $100 of insurable earnings. The lower rate for Quebec residents reflects the premium reduction negotiated between that province and the federal government to offset Quebec's new parental insurance plan that came into effect on January 1, 2006. The maximum insurable earnings under the Quebec EI plan is $39,000. The maximum annual contribution for employees is $596.70; for employers, it is $835.38.

The federal government has announced that it plans to extend the definition of "family member" for the Employment Insurance Compassionate Care Benefit to include siblings, grandparents, in-laws, aunts, uncles, nieces, nephews, foster parents, wards and "others considered like family by the gravely ill person or their representative". The benefit provides up to six weeks of EI benefits for those who are required to attend to a gravely ill family member. (See November, 2004 edition of the Coughlin Courier for more information.)

Canadians seem to be ignoring traditional advice from financial planners to retire debt-free. According to an Ipsos-Reid poll conducted for the RBC Financial Group, 48 per cent of Canadians say it's not necessary to eliminate their debt load before they retire. The survey, which was conducted in November 2005, involved 1,250 adults across Canada.

A Deloitte and Touche survey of 1,400 human resource practitioners in 60 countries suggests that employee retention will be the biggest issue facing employers in the coming years. Citing the potential labour shortage resulting from an aging workforce nearing retirement, the survey says that skills shortages will soon affect companies' business performance and growth.

For Canada, the situation could even be more acute, the Deloitte and Touche document says. Only 47 per cent of Canadian organizations surveyed had defined the skills they need for future growth, compared to 63 per cent of their global competitors.

The Social Investment Organization has published its 2006 list of asset managers offering socially responsible funds and services to institutional clients. The directory can be downloaded free of charge at: www.socialinvestment.ca/SIODirectory2006.pdf.

PPN UPDATE

The *Manotick Pharmacy* has changed its name to the **Manotick Clinic Rexall.** It is still located at 5492C South River Drive in Manotick.

Beausejour Pharmacy at 102-1220 Place d'Orleans Blvd. is no longer a member of our PPN.

LIF, RRIF, LRIF, GIC, RRSP spell one thing:

RETIREMENT

Take the confusion out of retirement planning.

For **FREE** retirement savings and income advice with *Service Beyond Expectations*™, contact:

Jackie Figley

direct: (613) 231-2554
toll free: 1-888-613-1234 ext.: 251
email: jfigley@coughlin.ca