

Dividing the Pension

Pension Valuators of Canada

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Equalization of property

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The equalization of property is different when the largest asset is a pension. Pension divisions are usually dealt with in three ways: divide the pension into two separate pensions, payments over a period of years or an "If and When" agreement.

When Division is Possible

The Pension Benefits Standards Act (PBSA) allows the transfer of up to the full value. However, this Act only applies to certain pensions. To check whether it applies to a particular pension please visit www.osfi-bsif.gc.ca.

The Pension Benefits Division Act (PBDA) allows for the transfer of up to the amount calculated as the maximum transferable amount. This Act only applies to a small number of Federal Government pensions.

You should never agree to a transfer under either of these Acts without having the **pension valued properly**. Otherwise your client may lose thousands of dollars unnecessarily.

Mr. William J. Eddie thought that dividing his federal government pension under the PBDA was a good idea. He figured it would save him the cost of having his pension valued and also avoid the arguments that arise in attempting to agree on the proper value. Mr. Eddie contacted his PBDA administrator and they gave him the amount that they calculated to be one half of the value of his pension that accrued during his marriage. He and his wife then agreed to split his pension as the PBDA provided.

The agreement they signed stated they

would direct the administrator to transfer funds to a pension for the spouse, the amount to be determined by the administrator as being one half the value accrued during the marriage. This meant that Mr. Eddie's pension would be reduced accordingly.

Mr. Eddie was surprised when he discovered that the amount transferred out of his pension was **substantially more** than he expected. Mr. Eddie expected the amount transferred would be calculated as of the separation date. The PBDA administrators' position is the amount transferred is determined as of the date that the calculations are completed. The separation date was months earlier than the date the calculations were completed.

When Division is not Possible

The last resort is to agree to divide the payments when the member retires. This is fraught with problems and is often referred to as a negligence case waiting to happen. Some things to provide for in the agreement are:

- **Indexing,**
- Interest on unpaid balance,
- **Bankruptcy,**
- **Death,**
- **Termination of employment,**
- Age of retirement to assume,
- **When splitting of payments ends,**
- Disability before retirement,
- **Buy out.**

For a complimentary copy of Chapter 17 of *How To Get The Most Out Of Your Divorce Financially* including a full explanation, with an "If and When" checklist and suggested wording, please contact us at:

Email: jernst@pension.ca

Phone: (800) 891-9122

Fax: (705) 749-6762

Mail: Pension Valuators of Canada, 785 The Kingsway, Peterborough, ON K9J 6W7

Visit our web site at <http://www.pension.ca/> for more useful information.

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