

# National Family Law Conference

Pension Valuators of Canada

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The paper I delivered at the recent conference in Quebec dealt with several important matters. A few of the matters are:

- Disability Benefits,
- Dividing the Pension,
- Pro rating the Pension,
- Survivor Benefits,
- Double Dipping,
- Income Tax Allowance,
- Other Employment Related Assets.

### Disability Benefits

More and more lawyers are realizing that only a small number of disability benefits are exempt property. After analyzing over 50 reported cases and commenting on several, I explained that while there have been inconsistent decisions, some disability benefits should be included in equalization and some should be excluded. I introduced the original argument that the amount received for “loss of income” in an accident case should be excluded as damages for personal injury because it is really paid for the loss of the ability to earn income. I also explained why part of a CPP disability benefit should be included. Workers’ Compensation, Disability Insurance; disability benefits from a pension plan and accident settlements were also discussed. I also discussed as to when it would be unconscionable to include the value anyway and when it would not be.

### Dividing the Pension

I explained why the commuted value of a pension or the value under the PBDA or the PBSA is rarely the proper value to use in the equalization. There was discussion about the Deferred Settlement Method that is being suggested by the Canadian Institute of Actuaries as a method of dividing the pension into two pensions at source. This method would allow the non-member spouse to share in the increase in the pension after the date of separation.

### Pro Rating the Pension

Pro rating the pension is not always correct and pro rating the survivor benefit is never correct.

### Survivor Benefit

Not all survivor benefits are irrevocable. It is important to know which are and which are not. In at least one pension plan the member can extinguish the survivor benefit and increase his/her pension merely by obtaining a divorce.

### Double Dipping

The argument that double dipping should not be allowed is losing ground.

### Income Tax Allowance

It is possible to increase or reduce the value of the pension substantially by proper calculation of the income tax allowance.

### Other Employment Related Assets

Included in the talk is an extensive list of other employment related assets to watch for.

For a complete copy of this paper with case citations, or to discuss your case, please contact us at:

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