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# PENSION VALUATORS OF CANADA

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Attention: Family Law Lawyers

Bulletin No. 113

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## ARE DISABILITY BENEFITS A FAMILY ASSET?

There have been many court cases dealing with this question. They have now established that some disability benefits are shareable while some are not (and are used only to determine support payments).

*Shareable disability benefits* should have some or all of the following components:

1. The right to the payments arose during the marriage.
2. The payments are being made as a replacement of lost income, and not as compensation for injury.
3. The rights and the payments arose because of past service or direct or indirect employee contributions.



4. There is a contractual obligation to pay the payments.
5. Payments have been received during the course of the marriage and used as ordinary family income.

There is no doubt that the right to certain disability benefits is property. The above criteria help in establishing whether or not the payments are shareable family assets to be valued on marriage breakdown.

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For further information or a copy of our extensive brief about any or all of these please call Pension Valuers of Canada at **1-800-891-9122** or fax us at 1-705-749-6762.

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