



NO.: 77-1R5

DATE: August 17, 2007

SUBJECT: Deferred Profit Sharing Plans

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Application

This circular cancels and replaces Information Circular 77-1R4, *Deferred Profit Sharing Plans*, dated December 30, 1992.

General

1. This circular explains the provisions of the *Income Tax Act* (the Act) and the Canada Revenue Agency's (CRA) administrative rules that apply when registering a deferred profit sharing plan (DPSP). Information is also included on transfers and reporting requirements for a DPSP.

2. A DPSP is an arrangement where an employer may share with either all or a designated group of its employees the profits from the employer's business, or from the business of the employer and one or more corporations with which the employer does not deal at arm's length.

3. The amounts payable by the employer are normally calculated by reference to profits (e.g., 5% of profits) as defined in the plan. The payments made by the employer must be made to a trustee in trust for the benefit of the employees or former employees of the employer, as provided under subsection 147(1) of the Act.

4. The circular has four parts:

Part I – **Conditions for Application and Registration** (¶ 5 to 36)

Part II – **Transfers** (¶ 37 to 39)

Part III – **Reporting and Taxation of the Trust** (¶ 40 to 54)

Part IV – **General Information** (¶ 55 to 56)

Part I – Conditions for Application and Registration

Authority – Section 147 of the *Income Tax Act*

5. As per section 1501 of the Regulations, in order to register a plan, you must send us the following documents:

(a) Form T2214, *Application for Registration as a Deferred Profit Sharing Plan*;

- (b) if the employer is a corporation, a certified copy of the resolution of the directors authorizing the application to be made; and
- (c) a copy of the trust agreement and plan text (these can be combined in one document) constituting the plan or, if the plan conforms to an approved specimen plan (subject to variables), certification of Form T2214 by the company that secured approval of the specimen plan to which the plan conforms (see 11 and 13 below).

6. Send your application by registered mail to:
Registered Plans Directorate
Canada Revenue Agency
Ottawa ON K1A 0L5

7. The effective date of registration of the plan will be either the date of mailing, as indicated by the post office postmark, or a later date as requested by the employer. We will accept an application submitted by regular mail but, since we cannot guarantee the date we receive the application, the effective date of registration will be at the discretion of the CRA. If the application is incomplete, we may make the effective date of registration the date you submit the missing documents.

8. Once the plan is registered we do not need an application form from an employer who later joins the plan. You must notify us when an additional employer is participating in the plan. The notification must:

- quote the registration number of the plan; and
- state the effective date of participation.

The participation of a new employer should be properly authorized by the directors, if the employer is a corporation (see 5(b) above), it must be permitted by the terms of the plan, and the effective date can be from the beginning of the employer's current fiscal period.

9. The subsequent participation by an employer will only be permitted if the DPSP has been amended to meet the conditions for registration that apply on the effective date of that employer's participation.

Specimen Plans

10. A trust company, insurance company, or consultant who wants to simplify the marketing and registration under section 147 of the Act can submit for approval in principle a package consisting of a plan text and trust agreement, as well as a statement of limited variables to be permitted within such documents. Submission should be made to the address shown in 6 above. Once approved, we will assign the specimen plan a number for identification purposes, and we will advise the applicant of our approval, the identification number, and the variables that we will permit.

11. When a plan conforms to an approved specimen plan, you do not need to submit a plan text or trust agreement with each application. The application should merely certify that it conforms to an identified specimen plan. Section 6 of Form T2214 must be completed and should provide details about permitted variables, if applicable.

12. Only a limited number of variables are permitted because otherwise the purpose of the specimen plan is defeated. Examples of permissible variables are the vesting schedule, administration fee schedule, retirement age, and designated investment funds.

13. Application for the registration of a plan conforming to a specimen plan should be submitted individually.

14. If a plan that conformed to a specimen plan at the time of application is later amended so that it no longer conforms, you should submit a complete amended text and trust agreement to the address shown in 6 above.

15. Correspondence to the CRA about an approved specimen plan (but not about a specific registered plan) must identify the specimen plan by its assigned identification number. Correspondence, returns, or other submissions regarding a registered plan, whether or not it conforms to a specimen plan, must identify that plan by its registration number.

Statutory Conditions for Registration

16. The plan terms have to comply with subsection 147(2) of the Act. The plan must therefore provide for the conditions in (a) to (l):

- (a) all payments made under the plan to a trustee for the benefit of beneficiaries are to be allocated by the trustee (in the year in which they are received by the trustee) to the individual beneficiary for whom the amounts were so paid;
- (a.1) no contributions can be made to the plan other than the employer's contribution made according to the terms of the plan for the benefit of the employer's employees who are beneficiaries under the plan, or an amount transferred to the plan in accordance with subsection 147(19) of the Act;

- (b) no loan may be made to an employee or other beneficiary;
- (c) no part of the trust funds under the plan can be invested in notes, bonds, debentures, or similar obligations of an employer making payments under the plan, or of a corporation with which that employer does not deal at arm's length;
- (d) no part of the trust funds can be invested in shares of a corporation with at least 50% of its property consisting of the property described in (c) above;
- (e) no right or interest of an employee who is a beneficiary under the plan is capable, either in whole or in part, of surrender or assignment.

Note

Under proposed technical amendments to take effect after March 20, 2003, this condition is amended to apply to all persons who have a right under the plan, not just employee beneficiaries. The proposed amendment will also permit the plan to allow the assignment of benefits under a court order or written agreement due to the breakdown of a marriage or common-law partnership, an assignment by a deceased individual's legal representative on distribution of the individual's estate and a surrender of benefits in order to avoid revocation of the plan. Plans may be administered as if the law has been passed and once the law is passed, they will have to be amended accordingly;

- (f) each of the trustees under the plan is a resident of Canada;
- (g) if a corporation licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee is not a trustee under the plan, there must be at least three trustees who are individuals;
- (h) all income received, capital gains made, and capital losses sustained by the trust are to be allocated to beneficiaries under the plan within 90 days after the end of the trust year, unless they have been allocated in previous years;
- (i) all amounts allocated or reallocated to a beneficiary must vest irrevocably in that beneficiary:
 - (i) in the case of an amount allocated or reallocated before 1991, not later than five years after the end of the year in which the amounts are so allocated or reallocated, unless the beneficiary has ceased before that time to be an employee of an employer who has participated in the plan; and
 - (ii) in the case of any other amount, no later than the later of either the time of allocation or reallocation, or the day on which the beneficiary completes a period of 24 consecutive months as a beneficiary under the plan, or under any other DPSP for which

the plan can reasonably be considered to have been substituted;

- (i.1) each forfeited amount and earnings that can be reasonably attributed to the forfeited amount must be paid to participating employers or be reallocated to beneficiaries on or before December 31 of the year immediately following the calendar year in which the amount is forfeited, or such later time the Minister permits in writing;
- (j) the trustee must inform, in writing, all new beneficiaries of their rights under the plan;
- (k) all amounts vested in each employee who is a beneficiary must become payable to the employee or, in the event of the employee's death, to a beneficiary designated by the employee or to the employee's estate, not later than the end of the year in which the employee attains 71 years of age and 90 days after the earliest of:

- (i) the death of the employee;
- (ii) the day on which the employee ceases to be employed by a participating employer;
- (iii) the termination or winding up of the plan.

If the employee elects and if permitted by the plan, all or any part of amounts payable to the employee:

- can be paid in equal annual or more frequent installments over a period of not more than 10 years from the day on which the amount becomes payable; or
- can be used to purchase an annuity from a person licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada an annuities business.

If an annuity is purchased, it must begin no later than the end of the year in which the member attains 71 years of age and, if it has a guaranteed term, such a term must not be more than 15 years. (A DPSP may permit members to withdraw all or a portion of their vested interest in the plan while continuing in employment.);

- (k.1) no benefit or loan, other than:
 - (i) a benefit, the amount of which has to be included when calculating the beneficiary's income;
 - (ii) an amount referred to in paragraph 147(10)(b) of the Act;
 - (ii.1) an amount paid to purchase an annuity on behalf of the beneficiary under the plan to which subparagraph 147(2)(k)(vi) of the Act applies.
 - (iii) a benefit derived from an allocation or reallocation referred to in subsection 147(2) of the Act; or
 - (iv) the benefit derived from the provision of administrative or investment services for the plan;
 that is conditional in any way on the existence of the plan, can be extended to a beneficiary or to a person with whom the beneficiary was not dealing at arm's length;

(k.2) no individual can become a beneficiary under the plan who is:

- (i) a person related to the employer;
- (ii) a person who is, or is related to, a specified shareholder of the employer or of a corporation related to the employer;
- (iii) if the employer is a partnership, a person related to a member of the partnership; or
- (iv) if the employer is a trust, a person who is, or is related to, a beneficiary under the trust;
- (l) The plan must comply with the *Income Tax Regulations* (the Regulations) relating to DPSPs.

CRA Requirements

17. A plan must also meet the following administrative rules:

- (a) The plan must not provide for divesting because of dismissal for cause or union membership.
- (b) The trustee(s) must have sufficient authority to ensure that the plan is implemented and operated and that the payment of benefits to the beneficiaries is made.
- (c) If the plan or trust agreement empowers the trustees to borrow monies against the assets of the trust, such borrowing must be only to facilitate the payments of benefits under the plan without forcing a distress sale of long-term investments. The borrowing must also be on a short-term basis.
- (d) The plan must provide that employee contributions made before 1991 and amounts transferred to the plan on behalf of the beneficiary from another DPSP are fully vested in the beneficiary. The Act does not allow employee contributions, other than a direct transfer from another DPSP, after 1990.

Contributions

18. For years after 1990, a plan can permit contributions to be made at the employer's discretion, or to be contingent on a prerequisite such as employee performance, without requiring the employer to make a minimum contribution. The text must clearly provide, however, that contributions will be subject to the maximum contribution limits of paragraph 147(5.1) of the Act (see 24 below).

19. Contributions made "by reference to profits" is expressed as a percentage of profits for the year. Profits can be defined either as profits of the year or of previous years that have not been allocated.

20. An employer can base contributions on its own profits for the year or on the combined profits for the year of it and corporations with which it does not deal at arm's length. An employer, however, can only contribute to a plan on behalf of its own employees.

21. When an employer does not make any contributions to a DPSP in a calendar year, the other provisions of the plan must continue to operate, and the trustee(s) must continue the administrative duties for the plan.

22. No deduction can be made in calculating the income of an employer for a taxation year for a contribution to a DPSP for a beneficiary who is described in paragraph 16(k.2) above. Furthermore, all amounts allocated or reallocated on behalf of such beneficiary must be taken into income in the year allocated or reallocated, as per subsection 147(10.3) of the Act.

Contribution Limits

23. Contributions to a DPSP on behalf of a beneficiary and forfeited amounts that have been reallocated to a beneficiary are included in the beneficiary's pension credit for a year. A forfeited amount is an amount to which a beneficiary under the plan has ceased to have any rights, other than the portion of that amount that is payable to another person because of the beneficiary's death.

24. The plan terms must include the following limits and ensure that they will be satisfied for each calendar year:

- (a) The total of a beneficiary's pension credits for the year regarding an employer under that employers' DPSPs cannot be more than one of the following amounts, whichever is less:
 - (i) 1/2 of the money purchase limit for the year; and
 - (ii) 18% of the beneficiary's compensation for the year from the employer;
- (b) The total pension credits of a beneficiary under DPSPs for the year regarding an employer or any other non-arm's length employers cannot be more than 1/2 of the money purchase limit for the year; and
- (c) The total of the beneficiary's pension adjustments for the year regarding an employer and regarding any other non-arm's length employers cannot be more than one of the following amounts, whichever is less:
 - (i) the money purchase limit for the year; and
 - (ii) 18% of the beneficiary's total compensation for the year from the employers.

For further information on calculating the pension credit, the pension adjustment or what the current money purchase limit is, please refer to the *Pension Adjustment Guide* (T4084). The guide is available at any of our tax services offices or on our Web site at www.cra.gc.ca.

Note

For the purposes of the above limits, compensation includes total salary, wages, and other amounts from the beneficiary's employment with the employer that have to be included in calculating the beneficiary's income for the year.

In (c) above, but not in (a), compensation also includes amounts prescribed by section 8507 of the Regulations for periods when a beneficiary's remuneration is less than normal because of periods of disability, leaves of absence, or similar causes. Note that amounts included under paragraph 6(1)(f) of the Act (benefits under employer-funded sickness or accident insurance plans, disability insurance plans or income maintenance insurance plans) are considered "compensation" under (a) above since they have to be included in calculating the beneficiary's employment income.

If the beneficiary is not a resident of Canada for a period in the year, compensation in (a) and (c) above does not include remuneration for that period that does not relate to duties performed in Canada or that is exempt from tax in Canada under a tax treaty with another country, except to the extent that it is acceptable to the Minister.

25. The employer must determine whether a DPSP contribution or reallocation of a forfeited amount will cause the limits in subsection 147(5.1) of the Act to be exceeded before making the contribution or reallocation. Particular caution must be exercised with the timing of contributions, and determining whether more than one plan exists or more than one related employer is contributing on behalf of the same individual.

26. If the limits are not respected for a calendar year, registration of the DPSP is in a revocable position. The employer will be denied a deduction for contributions made in the year, except as expressly permitted in writing by the Minister.

Allocations to Beneficiaries

27. A DPSP can provide for different methods of allocating different sources of income. For example, the plan can provide that investment income is to be allocated to beneficiaries based on the balances in their accounts at the beginning of the year, whereas proceeds of a life insurance policy on a member are to be allocated solely to the deceased member's account. If the plan is silent about the method of allocation of the various sources of income, we do not object to an allocation of each source on any reasonable basis.

28. Capital gains made and capital losses sustained by the plan must be allocated to beneficiaries under the DPSP no later than 90 days after the end of the year in which they were made. The plan can provide for the allocation of unrealized gains and losses, as long as this approach is used consistently from year to year.

29. All capital losses sustained or accrued must be allocated to beneficiaries under the plan, regardless of whether or not such losses are more than the capital gains realized or sustained in that particular year. These capital losses are not deductible by the beneficiary. They may, however, reduce the taxable amount received by the beneficiary from the DPSP.

30. Amounts allocated or reallocated to a beneficiary that have not vested at the time the beneficiary ceases to be employed can, depending on the provisions of the plan, be paid out to the beneficiary or be forfeited by the beneficiary. In addition, the plan can provide for vesting of amounts allocated or reallocated to a beneficiary either at the time the beneficiary ceases to be employed, or at any time after the beneficiary ceases employment, subject to the vesting schedule in 16(i) above. Amounts which vest after the beneficiary ceases employment are not subject to the requirement described in 16(k) above.

31. If a non-vested amount is paid to the beneficiary or if vesting continues after employment ceases, the beneficiary will not be considered to have lost all entitlement to benefits. Therefore, any contribution or reallocation made on behalf of the beneficiary in the year of termination of employment must be included in the beneficiary's DPSP pension credit for that year. Contributions and reallocations of forfeited amounts, however, cannot continue on behalf of a beneficiary after the calendar year in which the beneficiary's employment ceases (except for contributions made in the first two months of the following calendar year that relate to the year of termination).

Amendments

32. All amendments to the DPSP, together with a copy of the authorizing resolution or by-law, if any, and advice of any change in the corporate identity of any employer participating in the plan or any change of trustees, should be submitted promptly to the CRA at the address shown in 6 above. The submission should identify the changes made to the plan. Failing to submit amendments may place the plan in a revocable position.

33. A DPSP that is amended retains its registered status unless notice of revocation of registration is given to a trustee under the plan and to the participating employer. Such revocation may be retroactive if the amendments are not in accordance with the law or CRA requirements.

Termination

34. If an employer terminates a DPSP or terminates its participation in such a plan, we will require the employer and/or trustee, to submit either a letter or a copy of the board resolution detailing the date and methods of distribution of the assets of the plan. The information should be submitted to the CRA at the address shown in 6 above.

Revocation of Registration

35. The Minister can revoke a DPSP's registration if any of the following occurs:

- (a) the plan has been revised or amended in such a way that, following the revisions or amendments, the plan no longer complies with the registration requirements for a DPSP;

- (b) any provision of the plan has not been complied with;
- (c) the plan did not comply with any of the rules in effect between January 1, 1968 and December 31, 1989
 - (c.1) transfers, made after 1988, that did not comply with subsection 147(19), paragraphs 60(j), 60(j.2) or 60(k) of the Act;
 - (c.2) the plan does not comply with the conditions for registration in 16(a) to (k) and (l) above (paragraphs 147(2)(a) to (k) and (l) of the Act);
 - (c.3) if the plan was registered after March 1983, the plan does not comply with the requirements of 16(k.1) and (k.2) above (paragraphs 147(2)(k.1) and (k.2) of the Act);
 - (c.4) the contributions limits of subsection 147(5.1) of the Act are not satisfied for a calendar year; or
 - (c.5) an employer who participates in the plan failed to file an information return reporting a pension adjustment for a beneficiary under the plan.

If the Minister revokes the registration of a DPSP, the effective date of revocation will be:

- if (c.2) or (c.3) above apply, not before January 1, 1991;
- if (c.4) above applies, at the end of the year for which the requirements are not satisfied;
- if (c.5) above applies, any date after the information return had to be filed; and
- in all other cases, the date of non compliance.

In any case, the Minister may revoke the registration on any later date. Notice of revocation and the effective date will be given by registered mail to the trustee of the plan and to an employer of employees who are beneficiaries under the plan.

36. The following special rules apply to a revoked plan:

- (a) the revoked plan is deemed not to be a DPSP, an employee profit sharing plan, or a retirement compensation arrangement;
- (b) the revoked plan cannot be accepted for registration or be deemed to have become registered under subsection 147(5) of the Act until at least one year after the effective date of revocation;
- (c) the trust is taxable on its taxable income for a taxation year if the trust was governed by a revoked plan for any part of that year;
- (d) the employer cannot deduct from its income payments made to a trustee under the plan at a time when the plan is a revoked plan;
- (e) any amount received by a beneficiary under the plan will be included in the beneficiary's income to the extent it would have been included in income under subsection 147(10) of the Act if the plan had been a deferred profit sharing plan;
- (f) the value of any funds or property appropriated to or for the benefit of a taxpayer who is an employer making payments to the plan, or a corporation with which such an

employer does not deal at arm's length, to the extent it would have been included in income under subsection 147(13) of the Act if the plan had been a deferred profit sharing plan (see 42 below); and

- (g) if property of a revoked plan is disposed of to, or is acquired from, a taxpayer for a consideration other than the fair market value of the property at the time of the transaction, the difference between the consideration and the fair market value will be taxable, as provided in 45 below.

Part II – Transfers

37. The transfer provisions of subsection 147(19) of the Act do not need to be included in the plan terms in order to satisfy registration requirements. Amounts can be transferred to or from a DPSP if the transfer is permitted under the Act and the terms of the plan do not prevent the transfer.

An amount that is transferred under subsection 147(19) of the Act is not to be included in the income of the person on whose behalf the transfer was made. Also, that person cannot deduct the amount transferred.

38. An amount can be transferred from a DPSP if the amount is:

- not part of a series of periodic payments;
- transferred on behalf of an individual employed or formerly employed by an employer who participated in the plan on behalf of the individual, or the individual's spouse or common-law partner who is entitled to benefits as a result of the individual's death in full or partial satisfaction of the individual's entitlement to benefits under the plan;
- an amount that would have been taxable if it was paid directly to the individual; and
- transferred directly to an RPP for the individual's benefit, to an RRSP under which the individual is the annuitant, or to another DPSP, as long as the other DPSP can reasonably be expected to have at least five (5) beneficiaries throughout the calendar year in which the transfer is made.

Note

Under proposed technical amendments effective after March 20, 2003, the law is amended to allow for the transfer of benefits to a former spouse or common-law partner who is entitled to the benefits as a result of the death of the employee. The amendment will also permit a transfer to the employee's spouse or common-law partner or former spouse or common-law partner who is entitled to the amount under a court order or other specified instrument relating to a division of property between the two parties in settlement of rights that arise out of or on a breakdown of the marriage or common-law partnership). Finally, the amendment will allow the transfer of funds from the plan to a RRIF under which the individual is the annuitant. This will be permitted for transfers made after March 20, 2003. Plans may be administered as if the law has

been passed and once the law is passed, they will have to be amended accordingly.

If a plan wishes to permit these transfers, the plan must be amended to include this new stipulation.

39. An amount can also be transferred from a DPSP to another registered plan if the amount is included in the income of, and is deductible by, the individual on whose behalf the amount is transferred under paragraph 60(j) of the Act. Deductions under paragraph 60(j) after 1989 are limited to DPSP benefits that flow through a testamentary trust, or a distribution of shares from a DPSP for which the beneficiary has elected under subsection 147(10.1) of the Act.

You will find more information on transfers from DPSPs in Information Bulletin IT-528, *Transfer of Funds Between Registered Plans*. This bulletin is available at any of our tax services offices and on our Web site at www.cra.gc.ca.

Part III – Reporting and Taxation of the Trust

Reporting

40. Once benefits become payable under the plan, the trustee has to secure a business number from the local tax services office for the purpose of reporting such payments.

41. Every person making a payment under a DPSP or a revoked plan to a beneficiary shall report such payments on Form T4A, *Statement of Pension, Retirement, Annuity and Other Income*. This form is available at any of our tax services offices and on our Web site at www.cra.gc.ca.

42. The amount or value of any funds or property appropriated in any manner whatever to or for the benefit of a taxpayer who is an employer making payments to the plan, or is a corporation with which such an employer does not deal at arm's length, other than payments for, or on account of, shares of the capital stock of the taxpayer purchased by the plan trust, will be income of the taxpayer in the year of appropriation and shall be reported on the Form T4A as income of the recipient. This includes forfeited amounts paid under the terms of the plan to the employer. Appropriations that are repaid within a year from the end of the year in which the appropriation was made and that are not part of a series of appropriations and repayments do not have to be included in income.

43. When an allocation of an amount contributed by an employer to the plan, or a reallocation of a forfeited amount, is made to an individual described in 16(k.2) above, the amount must be included in the individual's income under subsection 147(10.3) of the Act. The amount should be reported on Form T4A in the year of allocation or reallocation. If the amount of the allocation or reallocation is paid out in the same year as the allocation or reallocation, the payment does not need to be reported again on Form T4A. When the payment is made in a

year after the allocation or reallocation, that payment must be reported on Form T4A. The fact that an amount was taxable under subsection 147(10.3) of the Act does not exclude it from the taxing provisions of 147(10) of the Act on payout in a year after allocation or reallocation.

Determining Income from a DPSP

44. Amounts received in a taxation year by a beneficiary (other than an employer) from a trust governed by a DPSP or revoked plan shall be included in calculating the beneficiary's income subject to the following exclusions and deductions:

- (a) The following amounts do not have to be included in the beneficiary's income, and should not be reported on the Form T4A:
 - (i) the cost of an annuity purchased under the plan for the beneficiary, as per paragraph 147(2)(k) of the Act;
 - (ii) amounts allocated to the beneficiary when the plan was an employees' profit sharing plan and excluded from income because of subsection 147(11) of the Act;
 - (iii) amounts contributed to the plan by the beneficiary when the plan was a DPSP but excluded from income because of subsection 147(12) of the Act;
 - (iv) an amount representing a deferred capital gain on shares transferred out of a DPSP for which the beneficiary has made an election under subsection 147(10.1) of the Act; and
 - (v) amounts transferred directly to another registered plan.
- (b) The following are amounts which the beneficiary can deduct on his or her income tax return from the amount reported on the Form T4A if the beneficiary makes certain transfers or elections:
 - (i) a spouse or a common-law partner who receives a payment from a DPSP through a testamentary trust on the death of an employee who was a beneficiary of the plan can deduct such amounts under paragraph 60(j) of the Act that are paid in the year, or within 60 days after the end of the year, as a contribution to an RPP or as a premium under an RRSP;
 - (ii) amounts paid in the year or within 60 days after the end of the year as a contribution to an RPP or as a premium under an RRSP representing the cost amount to the beneficiary of shares transferred out of a DPSP, as permitted by paragraph 60(j) of the Act, if the beneficiary has made an election under subsection 147(10.1) of the Act concerning the shares; and
- (c) If a payment is made to a beneficiary's heirs or estate, any succession duty paid under a provincial succession duty act that applies to that payment can be deducted

when calculating the income of the recipient, as permitted by paragraph 60(m.1) of the Act.

45. A taxpayer is considered to have received a benefit from a DPSP if property of a trust governed by a DPSP or a revoked plan is disposed of to the taxpayer at a price that is less than the fair market value at the time of the transaction, or if property is acquired from the taxpayer at a price that is more than the fair market value at the time of the transaction. The difference between the fair market value and the sale or purchase price must be reported on the Form T4A and included in the taxpayer's income for the calendar year in which the transaction occurs. Such a transaction also subjects the trust to a tax (see 48(g) below).

46. An amount reported on Form T4A in the name of an employer under the plan or a corporation with whom the employer does not deal at arm's length must be included in the income of the taxpayer named, unless the funds or property, or an amount equal to the value of the funds or property, was repaid to the trust within one year of the end of the taxation year, and as long as the repayment was not part of a series of appropriations and repayments.

Taxation Year of Trust

The taxation year of a trust governed by a DPSP or a revoked plan is the calendar year or part-year during which the trust existed.

Tax Payable by a Trust

48. A trust governed by a DPSP is exempt from tax except in the circumstances described below:

- (a) Tax is payable on the taxable income of a trust for a taxation year during which the trust was governed by a revoked plan.
- (b) If, in a taxation year, the trust acquires a non-qualified investment, tax is payable equal to the fair market value of such investment at the time it was acquired. A refund of the tax can be claimed if the trust disposes of a property that, when acquired, was a non-qualified investment. The refund is equal to either the amount of the tax imposed as a result of the acquisition of the property, or the proceeds of disposition, whichever is less.
- (c) If a trust owns property acquired after August 24, 1972, which was a qualified investment when acquired and which later becomes a non-qualified investment, tax is payable equal to 1% of the fair market value at the time of acquisition of such property for each month throughout which the non-qualified investment was held.
- (d) If, in a taxation year, trust property is used as security for a loan, tax is payable equal to the fair market value of the property as of the date it is so used. Such tax is payable within 10 days of the day on which the property is used

as security for a loan. A refund of the tax can be claimed, if such property ceases to be so used. The refund is equal to the tax imposed when the property was used minus any net loss sustained by the trust because of such use.

- (e) If, at the end of any month in a taxation year before 2005, the trust holds “foreign property” as defined in the Act, a tax may apply – see Part XI of the Act for more information
- (f) If the trust has entered into an agreement before 2005 to purchase shares (excluding an option on a prescribed stock exchange), it may be subject to a tax – see Part XI of the Act for more information.
- (g) If the trust disposes of property to a taxpayer at a price that is less than the fair market value at the time of the transaction, or acquires property from a taxpayer at a price that is more than the fair market value at the time of the transaction, tax is payable by the trust for the calendar year in which the transaction occurs equal to 50% of the difference between the fair market value and the sale or purchase price (this is in addition to the income inclusion by the taxpayer noted in 48 above).
- (h) The trust is taxable on an excess amount created by contributions made by beneficiaries or gifts to the trust held at the end of any month. The excess amount for a DPSP trust at the end of a particular month is the total of all amounts each of which is:
 - (i) The total of all contributions made by a beneficiary after May 25, 1976, other than:
 - A. contributions that have been deducted by the beneficiary under paragraph 60(k) of the Act;
 - B. transfers on behalf of the beneficiary under subsection 147(19) of the Act; or
 - C. contributions (except those referred to in (A) and (B) above) made by the beneficiary in each calendar year before 1991 that are not more than \$5,500;

that have not been returned to the beneficiary before that time; or

- (ii) the amount of any gifts received by the trust after May 25, 1976.

A separate calculation under (i) above is required for each beneficiary whose contributions result in an excess amount in the trust in the year and tax at 1% of the excess amount at each month-end continues to be payable in later years until the excess contributions are returned to the beneficiary. (Any beneficiary contributions made after 1990, other than a direct transfer from another DPSP, are not only subject to this tax, but cause registration of the DPSP to become revocable.)

49. If, in a taxation year, a trust is governed by a revoked plan, tax is payable by that trust as described in 48(a), (b), (d), and (g) above.

50. If 48(b) or (d) above apply, tax is payable by the trust within 10 days of the day on which the trust acquires the non-qualified investment or uses the property as security, whichever applies. Otherwise, any tax payable by a trust, even if it is calculated on a monthly basis as in 48(c) and (h) above, is payable with the annual return that must be filed on behalf of the trust (see 52 below).

51. If a tax has been paid as required by subsection 199(1) of the Act on initial non-qualified investments (certain investments held since December 21, 1966), the trust can apply for a refund under subsection 199(2) of such tax that has not previously been refunded when it disposes of those investments.

Annual Returns of the Trust

52. Form T3D, *Income Tax Return for Deferred Profit Sharing Plan (DPSP) or Revoked DPSP*, is to be completed by a trustee of a trust governed at any time in the year by a DPSP or a revoked plan. The return must be filed within 90 days of the end of the calendar year. If it later becomes necessary to submit additional or revised information, such information should be submitted by letter and not by filing an amended return. The trustee of the plan should receive a form T3D, copies are also available at any of our tax services offices and on our Web site at www.cra.gc.ca.

Investments

53. Section 204 of the Act defines “qualified investment” for a trust governed by a DPSP or a revoked plan as investments listed in that definition and as prescribed by Regulation (e.g., subsections 4900(1) through (3), (7) and (11) of the Regulations). Section 204 also defines the term “non-qualified investment”.

54. Amounts paid by a trust governed by a DPSP or a revoked plan to acquire interests in life insurance policies are non-qualified investments unless the interest is in a policy described in subsections 198(6) and (6.1) of the Act or within the limits stated in subsection 198(7). Interests in life insurance policies falling under those subsections are deemed not to be acquisitions of non-qualified investments. Subsection 198(8) provides rules for determining when such investments have been disposed of and the proceeds of disposition. (Note: These investments are not qualified investments even though they are deemed not to be acquisitions of non-qualified investments.)

Part IV – General Information

Forms and Publications

55. The following forms and publications give information about DPSPs. These forms are available at any of our tax services offices and on our Web site at www.cra.gc.ca.

Forms

- T2078 *Election Under Subsection 147(10.1) in Respect of a Single Payment Received From a Deferred Profit Sharing Plan*
- T2151 *Direct Transfer of Single Amount Under Subsection 147(19) or Section 147.3*
- T2214 *Application for Registration as a Deferred Profit Sharing Plan*
- T3D *Income Tax Return for Deferred Profit Sharing Plan (DPSP) or Revoked DPSP*

Guides

- Pension Adjustment Reversal Guide (RC4137)*
- RRSPs and Other Registered Plans for Retirement (T4040)*
- Pension Adjustment Guide (T4084)*
- Employers' Guide – Payroll Deductions and Remittances (T4001)*

Interpretation bulletins

- IT-412 *Foreign Property of Registered Plans*
- IT-528 *Transfer of Funds Between Registered Plans*

Information circulars

- IC 74-21 *Payments out of Pension or Deferred Profit Sharing Plans – ITAR 40*
- IC 77-16 *Non-Resident Income Tax*
- IC 78-14 *Guidelines for Trust Companies and Other Persons Responsible for Filing T3GR, T3D, T3P, T3S, T3RI and T3F Returns*

Help and More Information

56. For information, you can contact the Registered Plans Directorate by telephone, fax, mail or courier:

Telephone:

In the Ottawa area:

For service in English – 613-954-0419

For service in French – 613-954-0930

Toll free elsewhere in Canada:

For service in English – 1-800-267-3100

For service in French – 1-800-267-5565

Agents are available Monday to Friday (except holidays) from 8 a.m. to 5 p.m. (Eastern time). Any calls we receive after those hours will be directed to a voicemail system. We will return the calls the following business day.

Fax: 613-952-0199

Mail:

Registered Plans Directorate
Canada Revenue Agency
Ottawa ON K1A 0L5

Courier:

Information Holdings Operation Section – Pensions
Registered Plans Directorate
Canada Revenue Agency
875 Heron Road, A-200
Ottawa ON K1A 1A2

Hours of operation:

Monday to Friday 7:30 a.m. to 3:30 p.m. Couriers should go to the loading dock for delivery and signature.

If you wish to send plan-related information to us by courier, please note that information related to particular plans is sensitive information that must be handled securely.

You can also visit the CRA Web site at www.cra.gc.ca.