

## **Frequently Asked Questions and Answers - Eligibility for direct transfers to RRSPs for certain employment claim payments**

### **1. What is a withholding tax?**

Withholding tax is a prepayment that gets collected on a distribution by the payee (i.e. the Monitor in this case) and is remitted to the Canada Revenue Agency ("CRA").

The amounts withheld will be reported on the tax slips that will be issued by the Monitor prior to February 28, 2018.

This withholding is then reported on your personal income tax return and is essentially a credit against your 2017 tax liability. Since the Monitor and CRA are not able to predict how much income you will have in a given year, the actual withholding is not your effective rate of tax but is a prepayment. Ultimately you may receive a tax refund or incur an additional amount payable.

In the Nortel distribution there will be two withholding rates that will be blended and applied to your distribution. These are:

- i. the lump sum withholding rate – 10-30% depending on how much you are receiving;
- ii. blended income rates for distribution for income (i.e. severance and termination).

Most people will have a different overall withholding rate because of the different amounts of various claims.

### **2. What is an eligible retiring allowance?**

Employees with years of service before 1996 may be able to transfer all or part of their distribution to a registered pension plan (RPP) or a registered retirement savings plan (RRSP). This part is commonly referred to as the amount eligible for transfer. The eligible portion can be transferred by the employer or the employee.

The employee must be under age 71 at December 31, 2016 and not deceased at the time of payment.

The eligible portion is calculated as follows:

\$2,000 per year of service before 1996  
PLUS  
\$1,500 per year of service before 1989 for which a claimant was not a member of an RPP or a deferred profit sharing plan (DPSP)  
LESS  
Amounts previously reported as an Eligible Retiring Allowance

### **3. Who is eligible to make an RRSP contribution?**

You may contribute into your RRSP if all the following criteria apply:

- i. you are 71 years of age or younger as of December 31st, 2017 (i.e. age eligible to make RRSP contributions);

- ii. you have RRSP contribution room; and
- iii. have a claim for severance or termination pay, TRA (Transition to Retirement Allowance) and/or RAP (Retirement Allowance Plan) and you had service with Nortel prior to 1996.

An RRSP contribution can be made directly by the individual receiving payment or by the entity making the distribution (also known as a direct RRSP transfer)

#### **4. Will direct transfers to RRSP accounts be available?**

Whether or not the direct transfers will be done by the Monitor, this will not affect the ability of individuals to shelter the distributions they receive into their RRSPs. This means:

- i. the Monitor will transfer the amounts direct; or
- ii. the recipient can receive the gross amount and make their own contribution into an RRSP account.

There is a timing difference between the first and second option, but it does not result in the loss of the ability to actually shelter the payment to the extent that you have RRSP room.

#### **5. What is the difference between the Monitor directly making the transfer and the individual completing the transfer on their own?**

As described in the town hall using the Illustrative Example #1 provided on slide 2 available [here](#), the difference is that your dividend will be subject to additional withholding tax and you will have to wait until you file your taxes for 2017 to receive a refund from the CRA of the amount you transferred to your RRSP on your own. Although we understand that there is a time difference, the amount is relatively small and is likely to only be approximately 6 months or less.

Illustrative Example #2 on slide 3 available [here](#), is essentially the same but has a higher amount of RRSP room. The impact in this example is that you receive less money as a result of the withholding to put into your RRSP if you did the transfer on your own.

#### **6. What is the Monitor willing to do?**

We have focused our attention on those individuals who may be in Illustrative Example #2 as the impact is more severe for these.

We have an arrangement with the Monitor which will allow for direct transfers in excess of \$26,010.00. The amount effectively reflects the RRSP contribution maximum for 2017.

We have done a review and have found that a number of people will be able to take advantage of this.

In order to qualify, you will need to:

- i. confirm you have \$26,010 or more in RRSP room;

- ii. understand that opting to have a direct transfer will delay your distribution by an additional three months from when a distribution to all other creditors is done;
- iii. ensure all your information is correct, otherwise your request will be nullified and you will receive a distribution less the withholding tax and will have to make the transfer yourself.

The terms of the RRSP rollover will be posted on the KM website as well as the Monitor's website by May 10, 2017.

If you don't have enough room, you will have to transfer the distribution to your RRSP yourself and claim this on your tax return for 2017.

You will be responsible for figuring out whether or not you have enough room in order to do the direct transfer of \$26,010 or more. As a result of the timing, the Monitor will not be able to provide this information as it will not have this information until November 2017.

**7. Why will the Monitor not do direct transfers to RRSP accounts for everyone?**

The administrative burden that is placed on the Estate in order to process the transfers is substantial. The experience of the Monitor at the time the Termination Fund paid out \$3,000 amounts to individuals with severance and termination claims was that it resulted in tremendous administrative work by the Monitor as a result of inaccurate or incomplete banking information. This also delays distributions for everyone.

There is no legal obligation on the Monitor to complete these transfers. Termination letters from Nortel providing for rollovers are not enforceable against the Monitor.

**8. What if I have more claims than for severance or termination pay, TRA (Transition to Retirement Allowance) and/or RAP (Retirement Allowance Plan)?**

You will receive a cheque for the amount at the dividend rate of 45-49 cents less withholdings.

**9. Can I make a contribution to my spouse's RRSP account as mine doesn't have enough room?**

No, direct transfers to spousal accounts will not be completed. If you would like to transfer your distribution to your spouse once you receive it, you can do what you want.

**10. Can amounts be transferred to a US registered plan such as an IRA?**

No, this is only for Canadians with accounts registered under the *Income Tax Act*.

**11. How will the \$3,000 I received from the Termination Fund be taken into account?**

The \$3,000 you have received from the Termination Fund has already been deducted from your gross claim.

**12. When will we find out how much room we have for the eligible retiring allowance?**

For those with \$26,010 or more room in their RRSP, please complete the form posted on the Monitor and Koskie Minsky's website ([available here](#)) and return it to the Monitor by **5 pm on June 8<sup>th</sup>, 2017**. Please read the instructions on the form carefully.

If you qualify for the direct transfer and advise the Monitor accordingly, the Monitor will confirm your eligible retire allowance amount prior to processing your transfer.

For those with less than \$26,010 eligible room in your RRSPs, the Monitor will provide you with information by the end of 2017 so that you may make the contribution before the CRA deadline.

For those who turned 71 in 2017, the Monitor will advise you by the end of November of your retiring allowance amount so that you may make the contribution in December 2017.