

**FREQUENTLY ASKED QUESTIONS AND ANSWERS -
QUALIFYING RETROACTIVE LUMP-SUM PAYMENTS ("QRLSP")**

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I. BACKGROUND ON QUALIFYING RETROACTIVE LUMP-SUM PAYMENTS ("QRLSP")

1. What is a Qualifying Retroactive Lump-Sum Payment ("QRLSP")?

According to the Canada Revenue Agency ("CRA"), a QRLSP is a lump sum that represents payments owed to the taxpayer for one or more prior tax years during which the individual was resident in Canada (subject to certain qualifications). Generally, payments are included as part of taxable income in the year the taxpayer received them. However, upon request by the taxpayer and for certain qualified amounts, the CRA will perform a calculation that may allow the tax burden of the payment to be distributed over prior tax years.

It should be noted that if the amount is allocated to a prior tax year, the tax payable in that prior tax year will be subject to interest accruing from the year it was allocated to the year the tax liability is paid (presumably 2018). The average interest rate imposed by the CRA from 1999 to 2017 is approximately 3%. If the amount of accumulated interest negates the benefit of the QRLSP the CRA will ignore the election.

2. What are the minimum criteria to qualify for a QRLSP calculation?

The CRA mandates the following minimum requirements:

- a) The amount must be taxable and must be reported on an information slip such as a T4A or a Releve 1;
- b) The amount must be from an eligible source of income (see question #3 below);
- c) The amount must be for an eligible taxation year, meaning:
 - i) You must have been resident in Canada and filing tax returns for the years to which you are requesting that the CRA allocate your tax burden with the QRLSP calculation (see question #12 below); and
 - ii) You must not have declared bankruptcy in that year;
- d) The total principal amount of you are requesting QRLSP calculations for must add up to \$3,000 or more; and
- e) You must file a paper return in the current year and attach the QRLSP form(s).

3. What is an eligible source of income for QRLSP calculations?

According to the CRA, the following types of payments are deemed to be "qualifying amounts" (amongst others) and can request a QRLSP calculation:

- a) income from an office or employment received under:
 - i) an order or judgment from a court or other competent tribunal;
 - ii) an arbitration award; or
 - iii) a lawsuit settlement agreement (including damages for loss of office or employment);
- b) benefits from unemployment insurance or employment insurance; or

- c) benefits from a superannuation or pension plan (other than non-periodic benefits such as lump-sum withdrawals).

Based on this, QRLSP forms will be mailed by Nortel for claims that meet certain criteria.

II. METHODOLOGY RELATING TO COMPENSATION CLAIMS

1. What Compensation Claims will qualify for a QRLSP calculation?

The criteria and methodology for the allocation of the payments to prior years was developed by the Monitor based on CRA requirements and was reviewed and accepted by the court appointed Representatives and Representative Counsel as well as counsel for Unifor.

Specifically, the following claims will receive QRLSP forms from Nortel:

- Supplementary Executive Retirement Plan (SERP) in pay,
- Transitional Retiring Allowance Plan (TRA),
- Excess Plan (EP),
- Retirement Allowance Plan (RAP),
- Survivor Income Benefit in pay (SIB),
- Survivor Transition Benefit in pay (STB), and
- LTD Employee Assistance Program

2. How will I know if I have a claim that qualifies for a QRLSP calculation?

You will receive a letter from Koskie Minsky LLP confirming that you have been identified as having one or more claims that qualify and inviting you to attend a webinar on December 7th, further information for which is provided further below.

If you do not have a claim that qualifies, you will receive a letter advising you of this and inviting you to the December 7th webinar. The webinar will have more information regarding why you do not qualify as well as other information, including how you can complete a QRLSP form yourself if you believe it is beneficial to your personal tax situation.

3. Why are certain claims excluded under the methodology?

Certain claims would have spanned only one year or would have been paid in a lump sum and therefore can only be attributed to one year, and thus are highly unlikely to provide any tax benefit even if allocated to that prior year. These kinds of claims include:

- STB in pay, TRA in pay, and RAP in pay that would have terminated in 2009;
- Severance and termination claims, because these claims would have at most spanned 78 weeks under the Court-approved methodology;
- Grown-in benefits as a result of the transfer or post-filing termination, including, for example certain TRA, RAP, SERP and Excess Pension claims. These claims

are treated as lump sum entitlements that were received at the time of the transfer or termination;

- Some claims had the option to choose a monthly or lump sum payment method, such as Excess Pension Claims. If recipients did not select monthly payments the claimant is assumed to have opted for a lump sum payment;
- Deferred pensions or accruals because they are deemed to occur at the time of the payment;
- Claims categorized as "other taxable" will be treated in the same manner as the underlying claim's tax classification. For example, patent claims, pensioner and LTD life, TRA claims for Flextronics employees, etc. were all received at a single point in time and therefore would not span more than one year and would not receive a QRLSP form.

Tax liabilities which arises in prior years, as a result of a QRLSP election, will be subject to interest at a rate of approximately 3%, compounded annually, on the amount of tax that becomes payable as a result of the QRLSP. Therefore claims that are attributed to a single year (especially those that go back to 2009/2010) will accumulate interest which will negate the benefit of the QRLSP for the vast majority of individuals with such claims.

4. What about claims for medical & dental?

These claims are not taxable and will not be reported on T4 slips. You cannot request a QRLSP calculation for these claims.

5. What about claims for LTD income benefits?

These claims are also not taxable and will not be reported on T4 slips. You cannot request a QRLSP calculation for these claims.

III. MECHANICS OF CALCULATING THE QRLSP

1. How will the QRLSP be calculated?

For those claims that qualify, the nature and payment of the claim will be taken into consideration. There will be two different ways of calculating the claim:

- a) Lifetime claims—for example Excess Pension, SERP, and SIB in pay claims:

For lifetime claims, the QRLSP will be calculated by allocating the amount representing the maximum annual entitlement the recipient could have received to each year from 2009 to 2017, with any excess included in 2017.

For example, if you had an EP entitlement to \$1,000 a year and have received a distribution for \$10,000 relating to this claim, your QRLSP will be calculated as follows:

2009	2010	2011	2012	2013	2014	2015	2016	2017
\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$2,000

- b) Claims that span over a specified time period—for example TRA, RAP, and STB in pay claims:

For claims that span over a specified time period, the QRLSP will be calculated by taking the total amount owing and distributing it equally to each year starting in the year it was terminated and ending in the year the entitlement would have terminated for the claimant if the CCAA had not occurred.

For example, if you had a TRA claim that terminated on January 14, 2009 but which otherwise would have terminated four years later, and have received a distribution of \$10,000 for that claim, your QRLSP will be calculated as follows:

2009	2010	2011	2012
\$2,500	\$2,500	\$2,500	\$2,500

The above examples are subject to certain exceptions for those who had only one year left in their claims or in the case of members who passed away. Further information is provided below.

2. I am an Executor/Executrix and have received Notice that a QRLSP was calculated. How was this calculation completed?

The above calculations in question #8 will apply to estates which are receiving a QRLSP form depending on whether the claim was for a lifetime or had a termination date. However, rather than setting either 2017 or the termination date as the final year, the last year used to distribute the income for the QRLSP calculations will be the year the claimant passed away.

3. I received a letter saying that none of my claims qualify for a QRLSP form, but I would still like to do the calculations to see if the QRLSP is useful to me. How do I do this?

The CRA does not release the precise algorithm used to perform the QRLSP calculations.

Please contact your tax advisor to confirm that you have completed the calculation correctly. Representative Counsel and the Monitor will not be providing advice on whether a QRLSP will be useful to you as it will depend on your personal financial circumstances.

IV. ON YOUR END: HOW TO USE THE QRLSP FORM

1. When will I receive the QRLSP form?

Forms will be mailed out in early 2018, before the deadline to file tax returns. If you would like to fill the form out yourself, you can download a copy of the T1198 form from the CRA [here](#).

2. I'm a non-resident, how can I use the QRLSP form?

As listed above in question #2, one of the criteria to apply for QRLSP calculation is that the payment being allocated to prior years is for years in which the taxpayer was a resident of Canada throughout (and impliedly, filing taxes for those years). If you were a non-resident during any of the years for which the QRLSP applies, you may not claim a tax calculation for those years.

Since Nortel and Representative Counsel do not have this information it is your responsibility to ensure you only use the qualifying years.

If you have any questions as to whether this applies to you please contact your tax advisor, as Representative Counsel and the Monitor will not be able to answer any questions regarding your specific residency and tax circumstances.

3. I'm a resident of Quebec. What is the process for requesting the equivalent calculation from Revenu Québec?

Revenu Québec has a separate but similar process to allow taxpayers to average retroactive payments by filing form [TP-766.2-V](#). The option is available to payments relating to previous years which total at least \$300. Revenu Québec will allow the calculation for the following types of income:

- a) employment income received further to a court judgment, an arbitration award or a settlement between the parties in legal proceedings (line 101 or line 107);
- b) a retroactive payment that you are required to include on line 110, 111, 114, 119, 122 or 147;
- c) interest on a retroactive payment (line 130);
- d) a retroactive payment of labour adjustment benefits and income assistance benefits (line 154);
- e) any retroactive payment included on line 154 that would, in the opinion of the Minister of Revenue of Québec, be an undue additional tax burden if you were to include the amount in your taxable income for the year;
- f) earnings loss benefits, supplementary retirement benefits and permanent impairment allowances paid under the Canadian Forces Members and Veterans Re-establishment and Compensation Act (line 101).

Koskie Minsky and the Monitor have not analysed which claims would qualify under the Quebec Taxation Act. You should consult with Quebec counsel to see if this form applies to you and would be beneficial.

4. Can I submit a QRLSP form for amounts which I also choose to split with my spouse?

No. For those types of income which qualify for both income-splitting and QRLSP calculations, you must choose whether the income is deemed to be received in a previous year for QRLSP purposes or received in the present year and eligible to split with your spouse. Because the QRLSP reduces your individual tax burden, amounts which you allocate to your spouse as income for the present year cannot also be counted as received by you in a former year.

5. I received a QRLSP form but don't know if I should file it. How will I know if it will benefit me?

The QRLSP forms are being provided by Nortel for your convenience and so that you have the option to file if you wish. However, should a taxpayer choose to submit a QRLSP form with their taxes, the effect of that request will be determined by the CRA.

The CRA will perform the calculations as requested but will only effect the calculation if it reduces the tax burden on the taxpayer. Please note that the CRA will only consider whether this reduces the amount of tax owed in the current year, and will not take into account any supplementary benefit calculations which may be affected such as Employment Insurance entitlements. Please speak to your tax advisor if you have any questions about whether this form will be beneficial for you.

6. Can I file more than one QRLSP form?

If you have received more than one QRLSP form and you would like to request a QRLSP calculation, you should consolidate the claims. You may have such forms from the Monitor, from Morneau Shepell, or from other unrelated claims, and they can all be added together.

You should add the amounts listed in the box titled "Total principal (prior years only)." If the sum is \$3,000 or more, attach the various QRLSP forms you have received to your return. The forms should provide the breakdown of the principal by year which the CRA will use to calculate any tax reduction.

7. How do I file the QRLSP form(s)?

In order to request the calculation for distributions you receive in 2017 you must attach the QRLSP to your 2017 tax return when it is filed. Please include the amounts in boxes 6850 and 6851 in your taxes and attach the QRLSP form(s) to your tax return. You should keep a copy of the form(s) and any supporting documents should the CRA have questions.

If you have received multiple forms, you may choose to only submit some of them. However, if you submit a form, you cannot selectively choose individual years from that form which would receive the QRLSP calculations.

V. **FOLLOW UP QUESTIONS**

1. **Where can I get more information?**

Please attend the webinar on December 7th, 2017 at 10 a.m. (Toronto time) in English and at 2 p.m. (Toronto time) in French. There are two ways to attend:

- a) **Live Web (with audio) Presentation:** Please visit Koskie Minsky's website and click on the link for the webinar you wish to attend:

<https://kmlaw.ca/cases/nortel-networks-corporation/#developments>

You do not need to register for the webinar online but please ensure you can access the link at least a few days before. If you are not able to attend the webinar, a recording will be available within 2 business days.

- b) **Telephone Attendance:** If you do not have access to a computer with internet, a dial-in audio-only option is available. You can sign up for this option by leaving a message on Koskie Minsky's toll free hotline at 1-866-777-6344 with your name, telephone number, and by mentioning that you wish to participate in the webinar by telephone. A Koskie Minsky representative will call you back to provide you with details. Please register by noon on December 5, 2017 to ensure a representative can call you back in time with the information.

The CRA also has information about the QRLSP available here on its website.

2. **Will QRLSP forms be provided from Nortel in the future?**

No, future distributions are only expected to amount to 2.5-4 cents on the dollar and the timing of these is not yet known. Since distributions relating to the years 2009 through 2017 will have already been paid out, all final distributions will be made in 2018 or later. A QRLSP calculation will likely have no effect on an individual's tax burden.

Further, if distributions are made in 2018 and 2019, it will not be economical for the Nortel estate to provide QRLSP forms for all those affected, given the large number of recipients and the low likelihood of a useful tax result.

However, you may still complete a QRLSP form for these distributions. If you would like instructions on how to complete a QRLSP form on your own, please refer to our webinar and this FAQ for guidance.