TAX FAQ

You may have been paid distributions from multiple sources in 2017, including amounts from the estate ("**Compensation Claim payments**") and pension payments from Morneau Shepell. This FAQ will provide some information about the tax on pension payments, but any questions should be directed to Morneau Shepell.

Please note that Representative Counsel is not providing you with tax advice and that the usefulness and application of the various strategies will differ based on your personal circumstances. Please consult with a tax advisor if you have any questions.

I. <u>TAX SLIPS</u>

1. When will the tax slips be issued?

As of February 28, 2018, the Monitor has issued the tax slips for 2017. You should receive them by mid-March 2018.

2. Will I receive a tax slip for all of the distribution amounts?

In some situations, you will not receive a tax slip for a Compensation Claim distribution. This would be because the amount was not taxable and there were no withholdings made from your distribution on account of taxes, CPP, or EI premiums.

Certain distributions, such as those representing claims for Long Term Disability ("**LTD**") Income, Pensioner, Survivor, and LTD Medical and Dental, and Pensioner and LTD Life Insurance, are non-taxable.

If you were paid a distribution for a type of claim which is not taxable, you will not receive a tax slip for that amount and will not have to pay income tax on these amounts.

If you were paid a distribution for a type of claim which was deemed to be non-taxable because of the Nortel Tax Appeal, namely, Pensioner or LTD Life Insurance, your tax slip(s) will not show these amounts as income. However, it will report the full amount of tax withheld on the amounts originally reported as income so that any overpayment of tax can be claimed as a refund or credit against other taxes due on your 2017 tax return. The gross-up on these amounts will be recovered from future Compensation Claim distribution(s) currently anticipated some time in 2018.

3. How will employment income be reported if I am a resident of Quebec?

You will not receive a RL-1 slip for any employment income you were paid in 2017. This is because Nortel now operates exclusively from Ontario and there are no payer reporting obligations for Quebec taxes on employment income.

The Monitor will not be withholding, remitting, or reporting Quebec taxes on employment income. However, you still have the obligation to calculate and remit this amount.

For those who were paid a distribution of employment income in 2017 and who have a Quebec address at the date of the 2017 tax slips were prepared, you will receive a T4 which will indicate the federally-reportable amount of employment income. The Monitor will include a letter with your T4 explaining how to use the amounts indicated on your T4 to complete your Quebec Income Tax Return (TP-1).

4. What tax slips will I receive?

Which tax slip(s), if any, you receive depends upon your residency and the type of distribution you received.

> **If you are a Canadian resident other than in Quebec:** you may receive a T4 if you were paid any employment income or retiring allowance amounts and/or a T4A if you were paid any pension income or death benefits.
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> **If you are a Quebec resident:** you may receive the above T4 and T4A forms, with the only difference being that if you were paid a retiring allowance, the T4 will only report the

federally reportable amount of the income tax. You may also receive a RL-1 if you were paid any death benefits or retiring allowance and/or a RL-2 if you were paid any pension income.

If you are a non-resident: you may receive a T4 if you were paid any employment income and/or an NR-4 form if you were paid any retiring allowance, pension income, or death benefits.

Residency	**Form by Type of Income Classification**			
	Employment Income	**Retiring Allowance**	**Pension Income**	**Death Benefits**
Canada (outside Quebec)	T4	T4	T4A	T4A
Quebec	T4	T4 (with the federally reportable amount of the income tax); RL-1	T4A; RL-2	T4A; RL-1
Non-Resident	T4	NR-4	NR-4	NR-4

II. TAX PLANNING ISSUES

1. What if my Compensation Claims are taxable? How can I reduce any uneven tax burden?

There are very limited tax planning strategies discussed below which may assist in reducing taxes. Please note, the various options for reducing your tax burden will not apply to every type of claim distribution, or may not be beneficial with every type of claim distribution.

Please consult with your tax advisor to determine whether any of the strategies would be helpful to you.

2. My distribution includes amounts that would have been paid to me in previous years, and putting the whole amount in my taxable income this year will lead to a large tax burden. Can the taxable portion of the distribution be split over two or more prior calendar years?

The distribution must be included in tax in the year it is paid. However, by submitting CRA Form T1198 you may apply for a Qualified Retroactive Lump Sum Payment ("**QRLSP**") calculation to apportion income you would have been paid in past years retroactively for the purposes of reducing your effective tax rate. There are certain limitations to the use of the T1198 form.

Please see our detailed FAQ, watch the recording of our webinar in English or French, or view the slides from the webinar regarding the QRLSP for more details, including how the QRLSP calculation will affect your taxes, how you will know if you are getting a QRLSP form and how to use the QRLSP form.

T1198 QRLSP forms will be provided by the Monitor to those whose Compensation Claims include claim types that would have been paid periodically and which would have covered a period of two or more years.

3. What kind of payments can I put in my RRSP?

You can transfer both taxable and non-taxable distribution amounts to your RRSP prior to age 71 and provided you have available RRSP room. However, as mentioned below, non-taxable distributions will not be treated as income and therefore will not raise your RRSP contribution limit.

You may have received a distribution which qualifies as a Reportable Eligible Retiring Allowance ("**Reportable ERA**"). The Reportable ERA is an amount paid out as a Retiring Allowance that increases your deduction limit for making RRSP contributions only for the taxation year in which the payment was made. The Monitor sent out a revised notice in December, 2017 that specified your Reportable ERA amount according to Nortel's records. However, it is your responsibility to ensure that any amount you contribute to an RRSP is within the limits under the *Income Tax Act*, as Nortel's records would not necessarily show if ERA has previously been reported.

If you would like to calculate your Reportable ERA, the steps are as follows:

a) Determine the total amount of Retiring Allowance arising from the Initial Distribution (for Base Severance, Lost Pension Accrual, Pension Equivalent, LTD Loss in Pension, Transitional Retiring Allowance, Retiring Allowance Plan, and SIB/STB);

b) Determine the maximum amount that could be eligible for a transfer to an RRSP as an ERA:

   i) If your most recent hire date with Nortel was prior to January 1, 1996, $2,000 per each year of service with Nortel between your most recent date of hire and January 1, 1996; and

   ii) If your most recent hire date with Nortel was prior to January 1, 1989, an additional $1,500 per year of service with Nortel prior to January 1, 1989 from your most recent hire date to the date you started to participate in any of Nortel’s registered pension plans or deferred profit sharing plans;

   iii) Less any Termination Fund which Nortel’s record show were reported as ERA

c) Determine the lesser of (a) and (b) which is the Reportable ERA.

You should consult your tax advisor to ensure the calculation of Reportable ERA reflects your individual circumstances and to understand the effect it might have on your RRSP deduction limit.

4. Is there any way to increase my RRSP contribution limit?

Canada limits total retirement savings under RRSPs, registered pension plans ("**RPPs**"), or deferred profit sharing plans ("**DPSPs**") to 18% of your earned income each year up to the annual maximum. To the extent that this distribution represents earned income paid to you prior to age 71, it will increase the amount of contribution room available.

5. Is there any way to contribute to an RRSP retroactively if I am over 71 years old?

There is no current procedure to allow an individual who is older than 71 to contribute to their RRSP retroactively upon receipt of lump sum distributions owed for past tax years.

6. Will I be able to deduct legal fees?

We do not believe the CRA will allow a deduction for legal fees as a part of the Nortel Insolvency. There is no precedent for allowing an individual deduction for legal fees in a proceeding of this nature where legal fees were paid by the Nortel estate for the most part.

We have looked into this from two different perspectives as follows:

> **CCAA Legal Fees:** These fees were paid from the Nortel Estate and were therefore effectively paid for by all creditors. As such it is unlikely the CRA will credit an individual with a deduction for a portion of the fees.
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> **Former Employee Advisors' Fees/GLIF Advisory Fees:** Pensioners represented by Koskie Minsky LLP would have seen a deduction for GLIF Advisory Fees if they were entitled to medical and dental benefits.
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> The amount listed under "Former Employee Advisors’ fee deduction" represents your portion of the costs used to attempt to mitigate the impact of pension cuts and was funded pro-rata from the Post-Retirement Medical & Dental claims of approximately 8,800 individuals.
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> The court approved paying these fees from the pensioner medical and dental claims, which are not taxable. According to the CRA, fees must be deducted against the amounts they were used to obtain and in order to establish the right to pension amounts (rather than to administer their distribution). As such it is unlikely the CRA will view these fees as deductible.

III. <u>PENSIONS ISSUES</u>

Please note that neither Koskie Minsky, as representative counsel, nor EY, as the Monitor, are administering the pension distributions. We include the below information for your reference but all questions about pension amounts should be directed to Morneau Shepell, the pensions administrator.

1. What distributions qualify for income-splitting with my spouse or common-law partner?

Certain distributions classified as pension income may be eligible for income-splitting with a spouse. The amount you are eligible to allocate to your spouse depends upon your age, income, and the type of income received, as not all pension income will qualify. Please consult your tax advisor as Representative Counsel and the Monitor will not be providing any individual tax advice.

Certain non-taxable distributions will not be treated as income and therefore will not be reported on tax slips and not be eligible for income splitting. These include LTD income, Pensioner, Survivor and LTD medical and dental claims, Pensioner and LTD Life Insurance claims.

Please note that you cannot request a QRLSP calculation for amounts that you opt to split with your spouse. Neither the CRA nor Revenu Québec allows both types of income allocation on the same amount of money. For more information please see the resources available for questions on the QRLSP.

2. Will I receive a Pension Adjustment Reversal ("PAR")?

Until all distributions are made, we will not know if a PAR is possible. Please see our FAQ on PARs here.

IV. RESULT FROM THE NORTEL TAX APPEAL

1. I was part of the Test Case Appeals which went to the Tax Court of Canada. Can you explain the decision?

On Friday, November 10, 2017, the Tax Court of Canada released a decision in the Test Case Appeals. The decision in *Scott v The Queen*, 2017 TCC 224, was only with respect to Survivor Income Benefits ("**SIB**"), Survivor Transition Benefits ("**STB**"), and Pensioner and LTD Life Insurance payments that were paid out of the Health and Welfare Trust ("**HWT**").

As a reminder, the Test Case Appeals were brought on your behalf after the CRA released a ruling that certain payments from the HWT were taxable. The distributions from the HWT were taxed when you first included them in your income between 2011 and 2014. Thus, even though STB and SIB payments were deemed to be taxable as death benefits in the Tax Court decision that was just released, you will not have to pay any additional tax on these amounts as you would have already paid the tax for the year you were paid the distribution.

Pensioner and LTD Life Insurance were deemed not to be taxable. The deadline to appeal this decision has now passed and neither party has pursued an appeal. Those who objected as part of the Test Case Appeals will have those tax years reassessed by the CRA as per our agreement with counsel for the CRA. We are currently in discussions with the Canada Revenue Agency and the Monitor regarding the administration of the Tax Court's decision in the Test Case Appeals and we will provide further information as soon as it becomes available.

The CRA has indicated they hope to complete the reassessment process by the end of 2018. Please check back to the Koskie Minsky website for more details.

2. How will the decision by the Tax Court of Canada in the Nortel Tax Appeal affect the tax on my distributions in 2017?

The ruling will be taken into account when the Monitor, EY, issues tax slips for 2017 distributions. This means that the portion of your 2017 distribution attributable to lost LTD and Pensioner Life Insurance will not be taxable and will not be included in income on your tax slip. All amounts withheld will be noted on your tax slip. The tax reporting is as follows.

Pensioner or Long Term Disability Life Insurance payments from the HWT, were ruled to be non-taxable. As a result:

a) If you received Life Insurance amounts from the HWT and you filed a timely and valid Notice of Objection with the CRA as part of the Nortel Tax Appeal, then the CRA will issue refunds, if any, in due course.

b) Pensioner and LTD Life Insurance claim payments made in 2017 or in the future will not be taxed. Your 2017 tax slip will not report the Life Insurance Compensation Claim payments from the Initial Distribution as taxable income, and it will report the full amount of tax withheld so that any overpayment of tax can be claimed as a refund or credit against other taxes due on your 2017 tax return.

When Pensioner and LTD Life Insurance claim payments were first made, there was an 11.1% effective gross up to compensate for the tax. As these payments are no longer taxable, the portion of the payment representing the gross up will be removed and your Life Insurance-related claim amount will be reduced accordingly by deducting this amount from future payments of Compensation Claim distributions. The gross up on other claims will not be affected by the Tax Appeal decision.

SIB and STB payments from the HWT were ruled to remain taxable. As a result:

a) For SIB or STB amounts you received from the HWT, you have already paid taxes on the amounts and no further action is required by you.

b) For SIB or STB Compensation Claim amounts you received in July 2017, these amounts will be reported as taxable on your 2017 tax slip, which will also show the amount of withholding tax that was deducted on this payment.

3. I am not sure whether I objected as a part of the Test Case Appeals. Will I get a refund for distributions from the HWT?

Representative Counsel has requested the CRA to extend the benefit of the Test Case Appeals decision to all HWT beneficiaries who received a Pensioner or LTD Life distribution. However, currently only those who filed a timely and valid Notice of Objection for the tax years 2011 to 2014 will have the taxation of their Pensioner and LTD Life Insurance distributions automatically reconsidered by the CRA.