

Commutation due to Non-Residency Status

This Bulletin has no legal authority. The Act and Regulation should be used to determine specific legislative requirements.

Legislation Proclaimed in Force on March 1, 2000. The *Employment Pension Plans Amendment Act*, proclaimed in force on March 1, 2000, sets out new and revised provisions regarding the commutation of locked-in pension funds under Alberta's jurisdiction.

The revised *Employment Pension Plans Regulation* details the procedure and prescribed waiver form required in order to be able to commute locked-in pension funds due to non-residency status.

Non-Residency Status Act 46(3) Regulation s. 39(23) and s.40(26)

Pension Plans

A pension plan must identify that the payment of benefits on termination, retirement, death, or marriage breakdown is to be made on a non-locked-in basis if the person entitled to those benefits is a non-resident of Canada for the purposes of the *Income Tax Act* (Canada).

This change to locking-in should not be construed as allowing a plan member to commute accrued benefits while enrolled as an active member of the plan. The ability for any person to transfer funds out of a pension plan is still subject to plan provisions regarding portability.

Locked-in Accounts

A financial institution *must* include a provision allowing that locked-in monies can be withdrawn as a lump sum, where an individual applies to the financial institution or pension plan administrator with proof that he has become a non-resident.

Confirmation of Non-Residency

An individual's status as a non-resident must be confirmed in writing by the Canada Revenue Agency (CRA). Application may be made to the CRA by completing CRA Form NR73: [Determination of Residency Status \(Leaving Canada\)](#). This form can be obtained from CRA's Forms and Publication Order Service at 1-800-959-2221.

Once the non-residency status is confirmed, the owner may have the money unlocked upon providing to the financial institution or administrator of the Plan, CRA's written confirmation and if the owner has a pension partner, a signed [Pension Partner's Declaration to Permit Commutation Due to Shortened Life or Taking Non-Residency Status](#), which is Form 5 of Schedule 1 of the Employment Pension Plans Regulation.

Please note that once the locked-in funds are commuted, they are no longer protected from creditors.

For further information please contact:

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