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## **[¶3418] Foreign pension plans**

An immigrated individual with an interest in a foreign pension plan will not normally be subject to tax in respect of the income earned in the plan. Payments made out of the plan will normally be included in the individual's income, but they may be eligible for "rollover" treatment if transferred to the individual's RRSP or registered pension plan, as outlined below.

Contributions that were made by a foreign employer in respect of the individual's employment outside of Canada while the individual was non-resident will not be taxable in Canada. Contributions made by the foreign employer to the foreign plan during the first 60 months of the individual's residency in Canada will also be exempt from tax in Canada. The contributions during this 60-month period will, however, form part of the individual's "pension adjustment" for the purposes of determining the individual's RRSP deduction room, so that the contributions will reduce the amount that can be contributed to the individual's RRSP. Contributions made by the foreign employer to the foreign plan after the initial 60 = month period will be subject to a 50% withholding tax if made in respect of the individual's employment carried on in Canada or in connection with a business carried on by the employer in Canada (subsection 207.6(5.1)). However, if the employer makes an appropriate election and satisfies certain other criteria, the contributions will remain exempt from tax even after the 60-month period (regulation 6804(6)). One of the criteria is that neither the employer nor a non-arm's length party may contribute to a Canadian registered pension plan on behalf of the individual. Again, the contributions to the foreign plan will form part of the individual's "pension adjustment" for the purposes of determining the individual's RRSP deduction room.

A Canadian resident individual can transfer a lump-sum amount received from a foreign pension plan into the individual's RRSP on a tax-free basis (paragraph 60(j)), provided that the amount is attributable to services rendered by the individual or a spouse or former spouse of the individual while that person was not resident in Canada. Likewise, a lump-transfer of funds from the foreign pension plan to a Canadian registered pension plan can often be made on a tax-free basis, for example, if the terms of the RPP provide for the transfer, and the transfer is not initiated at the individual's request. The transfer to an RPP must be approved by the CCRA.

A lump sum payment received from an "IRA" account in the United States can be received and transferred into the individual's RRSP on a tax-free basis (section 60.01), if the amount is derived from contributions made to the IRA by the taxpayer or the taxpayer's spouse or former spouse. For these purposes, the CCRA has stated that contributions from a U.S. pension plan (e.g., a 401(k) pension plan) transferred to an IRA at the direction of the taxpayer, their spouse or former spouse are considered to be derived from contributions by the taxpayer, spouse or former spouse. [§](#)(1) Therefore, for example, an individual can transfer funds from a 401(k) — pension plan to an IRA and subsequently to an RRSP, if the funds are transferred to the IRA at the direction of the taxpayer, their spouse or a former spouse.

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### **Endnotes**

#### **1 (Popup - Popup)**

See CCRA File Number 9502605, reproduced in the CCH's **Window on Canadian Tax**.