

DBplus for Sole Practitioners and Law Firm Partners

Employer / Employee Relationship is Required

In order to participate in DBplus (or any registered pension plan) there must be an employee/employer relationship. Accordingly, partners or sole practitioners must have a personal services corporation (a “PC”) under which the PC is the employer and the sole practitioner lawyer or firm partner is the employee of the PC.

Personal Services or Professional Corporation (“PC”)

The PC would join as the employer and would be responsible for the “employer contribution”, and the lawyer, as an employee of the PC, will make the matching “employee contribution.” Allowable contributions must be made from “salary and wages” as reported to the Canada Revenue Agency on the relevant tax slip issued by the PC as employer to the lawyer as its employee. Note, contributions may only be based on “salary and wages” paid by the PC to the lawyer; not dividend or capital payments which enjoy other tax advantages. This means the PC must pay some base amount of taxable wages, but those wages could be set by reference to overall limits on tax-assisted retirement savings – currently 18% of earnings up to \$27,830 in 2020.

There are costs associated with setting up and operating a PC. A sole practitioner or partner is responsible for determining the relative advantages and disadvantages of operating through a PC. Despite the erosion of many tax benefits associated with a PCs over the last couple of years, there are still several tax and financial benefits that remain, as well as liability protections that also ought to be considered.

Moving from a Lawyer to a Partner

A lawyer in a participating firm will accrue benefits as an employee. If and when they are elevated to partnership, the lawyer will have to terminate participation in the Plan. However, if that happens, the lawyer will be able to choose to leave the accrued benefit in DBplus or transfer it to a locked in RRSP. An advantage of leaving it in DBplus is that it will continue to provide the accrued lifetime indexed retirement benefit, and that accrued benefit will continue to grow, as it will be partially indexed to increases in the Average Industrial Wage up to retirement. If they choose, a lawyer can set-up a Professional Corporation, through which they will be able to participate once again in DBplus (as an employee of their PC). However, a PC does not have to be implemented to maintain the advantages of the benefit accrued while the lawyer was employed.

Summary

Some partners and sole practitioners may already be eligible to participate in the Plan. Others will have to weigh the costs and benefits of establishing a professional corporation. Speaking of fees, it is important to note that other than the ‘employer’ contribution matching requirement based on employee T4 earnings, there are no additional fees either the employer or the employee.