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## LEAVING A JOB: TERMINATION AND SEVERANCE PAY

### WHEN YOU LEAVE YOUR JOB, YOU MAY RECEIVE A TERMINATION AND/OR SEVERANCE PAY.

When your departure is involuntary, every jurisdiction stipulates how much notice you must receive. Commonly, the company will pay you in lieu of actually working through the notice period. This termination pay is considered employment income for tax purposes.

You may also be entitled to severance pay, which is payment in recognition of service, seniority, etc. Currently, only the federal jurisdiction and Ontario have statutory minimum severance requirements. In other jurisdictions, severance is dealt with under common law based on precedent. As a common law issue, the exact amount of severance you are entitled to will be determined by the particular nature of your employment arrangement and circumstances of your departure.

Your payments can have tax implications so it is important to understand the choices you may have about when and how to take your severance. Employment law is a provincial/territorial concern so the rules vary across the country, but some general statements can be made.

The timing of your severance payment may be important. When lump-sum severance payments are made, your employer is required to withhold up to 30% in tax (for payments over \$15,000). You will also be subject to any additional tax up to your Marginal Tax Rate which could be about 45%. Therefore, if you are leaving a job near the end of the year, you might ask your employer to defer the actual payment to the subsequent year, thereby deferring the additional tax until the next tax year.

### Retiring Allowance

A retiring allowance is a payment from your employer either in recognition of long service or as a payment due to involuntary job loss. Retiring allowances include severance pay and unused sick leave credits, but do not include unused vacation pay or termination pay (in lieu of your notice period). Ordinarily, income received from an employer must be included in income in the year received. However, if money received meets the definition of a retiring allowance, you may be able to postpone paying taxes on that income. The rules are quite specific but, in general, for each year or part year of service prior to 1996, you can transfer \$2,000 into an RRSP with no immediate tax consequences. You can transfer a further \$1,500 per year of service prior to 1989 when you were not part of a pension plan. I can help you determine if you are eligible to use the roll over. This transfer can certainly help save some taxes. The money you can roll over is not subject to any withholding tax either.

## Using Your Severance

Severance can be extremely helpful to get you through a time when you do not have other income. Finding a suitable new job may take more time than you think and it is comforting to know that bills will be paid and family finances and savings will not be strained. However, you may find yourself in the fortunate position that you will be receiving a severance payment but have already lined up another job. In this case, the payments can be thought of as somewhat of a 'windfall' and available for personal use.

Using the money to buy a new car, take a nice vacation or do that renovation you've been putting off can be very satisfying options. However, you certainly need to sit down and consider the implications. Although not as exciting, topping up your emergency fund or catching up on missed RRSP contributions may be more prudent. Let's discuss how to best use your severance package.

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