YOU ASK, WE ANSWER

When is a retiree not a retiree?

WHEN SALARY CONTINUES

Wages don't qualify as a retirement allowance

BY GIGI SUHANIC

Question: I was laid off last Dec. 31 and am receiving my pay with all deductions including defined pension plan contributions through to 2006 when I will be eligible for early retirement at 55. Presently, I am getting a T4 for all of the earnings and therefore not claiming any of the money as a retiring allowance. Does my situation qualify as a retiring allowance? Can I ask my employer to treat it that way and issue a T4A? Does this situation require a ruling by the Canada Revenue Agency, and if so who would I contact? I was employed with the company for over 30 years.

Answer: It's easy to see why you would want the money you are receiving from your former employer to be treated as a retiring allowance. In such circumstances, you can transfer $2,000 per year of service for time worked prior to 1996 and an additional $1,500 per year for time worked prior to 1989 into your RRSP and you don't eat up contribution room. Plus, of course, taxation is deferred.

However, the problem in your case is that although you were laid off, you aren't considered retired because you are still making contributions to your company's pension plan. Because of this, even though you don't go to the office anymore, you are still considered an employee.

"The payments [you] are receiving each month are really a continuation of your salary and, as such, are not properly considered a retiring allowance within the meaning of the Income Tax Act and Regulations," says Jim Rogers, chairman of Vancouver-based Rogers Group, a financial advisory firm.

David Phipps, a certified financial planner and advisor with Assante Capital Management in Ottawa, says he sees your type of scenario often, adding he believes it's to the benefit of the employee because it usually relates to that person accruing enough service time to qualify for full pension benefits.

"They [employers] say to people, 'we're going to lay you off so you don't have to show up anymore, but we'll keep you on the payroll until X, we'll keep paying your pension, that way you're going to get your 35 years and ... a full pension,'" Mr. Phipps says.

Without commenting directly on your particular financial health, Mr. Phipps thinks generally it's in an individual's best interests to keep contributing to a pension plan.

"It really requires an analysis of the individual situation. My opinion is most are better off with as big a pension as they can get because that is where the financial security lies," he says.

Can you go back and renegotiate with you former employer? Mr. Phipps doesn't think so. You would have had to have struck a different deal when you were laid off.

If you wish, you can contact the Canada Revenue Agency to seek an opinion on your case. Call the Business Inquiry line at 1-800-959-5525 and ask for the Employee Complaints Division.

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