



PARTITION OF THE FAMILY PATRIMONY

PUBLIC SECTOR PENSION PLANS

WHO IS SUBJECT TO THE RULES GOVERNING PARTITION OF THE FAMILY PATRIMONY?

The rules apply to:

- married spouses, regardless of their matrimonial regime;
- spouses in a civil union.

The rules do not apply to:

- spouses married before July 1, 1989, who, before January 1, 1991, by way of a notarial act, gave notice of their intention not to become subject to the provisions regarding family patrimony;
- married spouses who ceased living together before May 15, 1989, and had settled the economic consequences of their separation in writing or otherwise, except if they resumed living together;
- married spouses who applied for divorce, legal separation¹, annulment of marriage or payment of a compensatory allowance before May 15, 1989;
- married or civilly united spouses who renounced their right to partition in accordance with the rules of the Civil Code of Québec;
- de facto spouses.

IS THE VALUE OF BENEFITS ACCRUED UNDER A PENSION PLAN PART OF THE FAMILY PATRIMONY?

According to the Civil Code of Québec, the value of benefits accrued under a pension plan during marriage or civil union by each spouse is included in the family patrimony.

This value may be partitioned in the event of a legal separation, divorce, annulment of marriage, payment of a compensatory allowance, dissolution or annulment of civil union, except if they relinquished their right to partition or if the rules of partition do not apply to them.

1. Legal separation is a situation when two married people no longer live together and whose separation was officially recognized by a court decree. However, for the public sector pension plans we administer, this separation does not result in the loss of spouse status since it does not end the marriage and does not release the spouses from their rights and obligations. On the other hand, it gives right to partition of the family patrimony.

WHAT DOES VALUE OF THE BENEFITS INCLUDED IN THE FAMILY PATRIMONY MEAN?

The value of the benefits included in the family patrimony varies depending on the situation on the date of assessment of the benefits: either you are a member of a pension plan and are eligible to a refund of contributions, a deferred pension or an immediate pension, or you are already receiving a retirement pension.

If the benefits accrued consist in a refund of contributions, the value corresponds to the contributions paid between the date of marriage or civil union and the date of assessment of the benefits, plus interests, if applicable. If the benefits consist in a deferred pension, an immediate pension or a pension payment in progress, the value corresponds to the actuarial value of the pension accrued since the date of marriage or civil union, up to the date of benefits assessment.

However, if the payment of a retirement pension began before the date of marriage or civil union, its value is not included in the family patrimony. Therefore, it cannot be partitioned since no benefits related to the pension were accrued during the duration of the marriage or civil union.

HOW CAN INFORMATION ON THE VALUE OF BENEFITS BE OBTAINED?

To know the value of benefits accrued in a pension plan, complete and send us the form *Application for a Statement of Benefits* (388A), available on our website. Upon receipt of the form and the required documents, we have 90 days to send you the Statement of Benefits.

Note that the Statement of Contributions does not include the value of benefits and that we cannot accept an assessment of benefits that would have been issued by an organization **other than ours** to establish the value of benefits accrued in a pension plan we administer.

WHEN TO APPLY FOR A STATEMENT OF BENEFITS?

As soon as proceedings for legal separation, divorce, annulment of marriage, payment of a compensatory allowance, dissolution or annulment of civil union are instituted, you can apply for a Statement of Benefits.

Spouses married or in a civil union who did not institute legal proceedings in court can also obtain a Statement of Benefits, but only as part of family mediation with an accredited mediator or a joint action in view of the dissolution or annulment of the civil union by a notary.

WHO CAN APPLY FOR A STATEMENT OF BENEFITS?

You or your authorized representative (lawyer, notary or accredited mediator) can request a Statement of Benefits, if:

- You are a member of a public sector pension plan we administer;
- You retained your benefits in a public sector pension plan we administer, even if on the date of the assessment of benefits you are no longer working for an employer subject to an act on that plan;
- On the date of assessment, you still had benefits accrued in the plan.
- You receive a retirement pension under a public sector pension plan we administer.

If you are in one of the four groups mentioned above, please note that the following people, or their authorized representative (lawyer, notary or accredited mediator), can also request a statement of benefits:

- your spouse;
- your former spouse, if the judgment ending a separation, marriage or civil union was issued, or if the civil union was dissolved by a joint notarized declaration.

WHAT HAPPENS IF THERE WAS A PRIOR BREAK-UP OF A MARRIAGE OR CIVIL UNION?

When partition has already occurred and if there is another marriage break-up or end of a civil union, the method of establishing the benefits accrued under a pension plan is the same as for the first partition. It applies only to the period related to the more recent marriage or civil union.

ARE SEVERAL APPLICATIONS REQUIRED WHEN MORE THAN ONE PLAN IS INVOLVED?

When only one spouse contributes or contributed to one or more than one pension plan, only one application is required. However, if both spouses contribute or contributed to one or more than one plan, two separate applications must be submitted.

WHAT IS THE PURPOSE OF A STATEMENT OF BENEFITS?

The Statement of Benefits is useful to determine the total value of the benefits accrued in a pension plan, as well as the value of the benefits accrued during marriage or civil union. The statement is the only document that will inform you of the **exact value of your pension plan** in the context of partition of family patrimony. It also provides the **amount of reduction applicable to your pension** if partition should apply.

WHEN IS ESTABLISHED THE VALUE OF BENEFITS?

The date of assessment of the value of benefits can only be the date of assessment of benefits. It corresponds to:

- the date on which one of the procedures already mentioned is instituted before the Superior Court of Québec;
- the date of end of common life;
- the date shown on the notarized joint declaration settling the consequences of the civil union dissolution, in the case of spouses in a civil union who proceeded with a dissolution of their union before a notary.

WHAT HAPPENS ONCE THE VALUE OF FAMILY PATRIMONY HAS BEEN ESTABLISHED?

The value of family patrimony is usually divided equally between the former spouses. They negotiate the terms and conditions of the partition but, failing an agreement, the Court renders a decision.

The spouses may decide together that the pension plan will not be affected and that its value will be compensated for by other property rather than benefits upon retirement. However, to be valid, this form of agreement must be confirmed by the Court. If the Court orders that the plan be partitioned, you must request payment of the amounts.

HOW TO REQUEST PAYMENT OF THE VALUE OF BENEFITS?

The payment of the value of benefits is not automatic. You must fill out the form *Application for Payment of the Value of Benefits* (389A), available on our website and send it to us with all the required documents. The application can be submitted as soon as judgment is entered. **Therefore, it is not necessary to wait to be retired.**

If both spouses contribute or contributed to a pension plan and the value of the benefits accrued by each must be partitioned, you can ask us for the partition to be based solely on the difference in the value of the benefits for each plan. In order to do this, you must include to your application a letter of authorization bearing both signatures.

WHO CAN APPLY FOR PAYMENT OF THE VALUE OF BENEFITS?

You or your authorized representative (lawyer, notary or accredited mediator) can request the payment of the value of benefits if:

- you are a member of a public sector pension plan we administer;
- you are no longer a member of a pension plan but kept your benefits under your plan;
- you are retired.

If you meet one of the conditions mentioned above, please note that your spouse (or former spouse) or authorized representative can also apply.

WHAT PERCENTAGE OF VALUE OF THE BENEFITS CAN BE AWARDED?

In most cases, in partitioning a pension plan, the Court awards 50% of the value of benefits accrued during marriage or civil union. However, the law allows the payment of a maximum of 50% of the total value of benefits accrued during all the years of membership to the plan.

Please note that we cannot take into account, in the calculation of the value of the benefits accrued, payments of alimony by the pensioner or the person who still participates in a pension plan. However, **if the judgment clearly states it**, it is possible to subtract from the amount sharable the amounts paid as alimony.

WHERE AND WHEN ARE TRANSFERRED THE AMOUNTS AWARDED AT THE TIME OF PARTITION?

The amount must be transferred to one of the following financial vehicle:

- Annuity contract;
- Locked-In Retirement Account (LIRA);
- Life Income Fund (LIF);
- Registered Retirement Savings Plan (RRSP) or Registered Retirement Income Fund (RRIF). Transfer to an RRSP or a RRIF is only possible if you are eligible to a refund of contributions on the date of assessment of benefits.

Only the amounts resulting from benefits accrued in accordance with a Registered Pension Plan (RPP) can be transferred to one of the financial vehicle mentioned above. Indeed, some pension plans are made of an RPP and a Supplementary Benefit Plan (SBP). The sharable value of an SBP cannot be transferred to a capitalized financial vehicle, but is payable by cheque, minus the applicable tax deductions.

Your spouse (or his or her authorized representative) must send us the adhesion contract confirming the choice of financial vehicle with the form *Direct Transfer of a Single Amount* (T2151) from the Canada Revenue Agency within 60 days from the mailing date of the confirmation of the amount awarded. Then, we have 120 days to carry out the transfer.

WHAT IS THE EFFECT OF PARTITION ON THE AMOUNT OF YOUR BENEFITS?

Once the amounts awarded to your spouse have been paid, a reduction due to partition is calculated and entered in your file. It will result in a **permanent** reduction of the amount of benefits you will receive, or are receiving if you are already retired.

In the case of a refund of contributions made after partition of the family patrimony, the part awarded to the spouse will be subtracted from that refund.

WHEN IS THE REDUCTION DUE TO PARTITION APPLIED?

If you have not started receiving your retirement pension, the reduction will apply from its effective date. The amount of reduction is adjusted upwards or downwards depending on your age on the date of retirement and the date of payment of the benefits. On the other hand, if you are retired, the pension will be reduced starting on the date of payment of the benefits.

IMPORTANT

If you are already retired on the date of the assessment of benefits, the amount of reduction will be increased by 0.5% for each month included between that date and the date of payment of the benefits. It is thus important to quickly apply for the payment of benefits.

WHAT HAPPENS IN CASE OF DEATH?

If your divorce was granted, if your marriage was annulled or your civil union dissolved or nullified at the time of your death, your former spouse is not entitled to any benefits. However, in some cases, if you had no new spouse, death benefits could be paid to your former spouse as heir.

If the value of the benefits accrued in your pension plan was included in whole or in part in the sharable value following legal separation, your former spouse is not entitled to any surviving spouse benefits unless there is resumption of cohabitation.

It is important to note that legally separated spouses still remain married as per the law. Therefore, if you are in such a situation at the time of death and had a new spouse at that time, no surviving spouse benefits will be paid to that person. However, death benefits could be paid to the latter as heir.

On the other hand, if the value of the benefits accrued in your pension plan was not included in the sharable value following legal separation, your former spouse retains his/her status and is entitled to surviving spouse's benefits, and this, even if you had a new common-law spouse.



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TO CONTACT US

Internet

www.retraitequebec.gouv.qc.ca

By phone

418 643-4881 (Québec region)

1 800 463-5533 (toll free)

People with a hearing impairment

418 644-8947 (Québec region)

1 855 317-4076 (toll free)

By fax

418 644-8659

In person or by mail

If you wish to meet with a staff member, we recommend you call in advance to make an appointment. You can also write to us at the following address:

Retraite Québec

475, rue Saint-Amable

Québec (Québec) G1R 5X3

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