



March 5, 2012

Mr. Azim Hussain
Norton Rose Canada LLP
1 Place Ville Marie, Suite 2500
Montréal, Québec
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Re: Judicial Annuity

You have requested that we comment on the February 23, 2012 letter entitled "Earnings Equivalent to the Judicial Annuity" prepared by Mr. Andre Sauvé (the "February 23 Letter").

In the February 23 Letter Mr. Sauvé has estimated the portion of earnings that lawyers in private practice would need each year to accumulate, in RRSPs and in after tax savings, the funds necessary to generate income comparable to the employer paid portion of the benefits received by the judges from the Pension Plan for Federally Appointed Judges (the "Plan"). Mr. Sauvé describes this calculation as an "earnings equivalent".

Mr. Sauvé has made a calculation of the estimated gross earnings that a lawyer in private practice must allocate every year so that, once the maximum contributions are made to his RRSP and income taxes are based on the balance of such earnings, the lawyer can accumulate in a TFSA and other savings arrangements, the funds necessary to generate retirement income comparable to the employer paid portion of the judicial annuity.

In the time available it has not been possible to undertake a full review of the calculations but I would note that in doing such a calculation I would probably have used a retirement age of close to 72 which is the average age at retirement of current recipients of benefits. Also, I may have used a different maximum tax rate than the one used by Mr. Sauvé. Time constraints have not permitted a discussion of this with him.

Nor has time permitted a discussion on the question of whether and how retirement savings of the lawyer prior to age 50 should be taken into account. The premise in the calculation of the funds needed to produce privately the equivalent of the judicial annuity is that a practicing lawyer would start accumulating funds at age 50. That, in my opinion, is unrealistic and brings into question the relevance of the exercise. If any comparison is to be made it should not assume that the lawyer will not make any savings before age 50. For example, if the lawyer starts saving at age 25 the earnings equivalent would be much lower as less money would have to be allocated every year. I calculate that the resulting figure for the gross earnings as a percentage of the judicial salary to be allocated every year would be 17% for retirement at age 65, 10% at age 70 and 9% at age 72.

Yours truly,

A handwritten signature in black ink, appearing to read 'Brian Fitzgerald', written in a cursive style.

Brian A. P. Fitzgerald F.I.A., F.C.I.A.
