

## **FACT FLASH – Lump Sum Settlement of Insured Long Term Disability (LTD) Claims**

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### The Situation

Over the last few years, Canadian insurance companies have been offering select individuals who are in receipt of LTD benefits, lump sum dollar amounts to discharge any future payments from the LTD policy. Recently, the Supreme Court of Canada, in the matter of Tsiaprailis v. Canada, ruled that the lump sum amount paid in this action was not a taxable benefit. This particular case was the result of a law suit filed against the insurance company. (The settlement was made to discharge any liability against the insurance company.)

LTD Claimants who are offered a lump sum non-taxable payment in lieu of their current taxable benefit will find the offer attractive. However, these offers do not consider the employee/employer relationships and associated obligations.

### What you should do if an employee comes to you about a settlement.

Do not give advice to an employee who has an offer of a lump sum settlement. You should recommend that they seek their own legal and financial advice on the matter.

If the LTD benefit has been paid as a result of an occupational injury, notify your provincial Workers Compensation authority of the action the employee has taken.

Contact your Williamson Group Account Manager and advise them of any information you have been given with respect to the offer. Your account manager is in a position to discuss any questions or concerns with the insurance company.

Advise your labour relations corporate lawyer of the situation.

### What you should do if an employee has accepted an offer of a lump sum settlement.

There are several strategies you can implement. If you are considering re-instating an employee who has accepted a lump sum settlement of their LTD benefit, you will want a firm understanding of their restrictions and limitations specific to their pre-disability position or any position they are returning to. Your Williamson Group Account Manager can arrange for Independent Medical Evaluations with our Disability Solutions Service. You should not proceed to reinstate their employment until you fully understand their capabilities.

### What you can do now.

Evaluate changing your policy and procedures to provide for employees that were eligible for LTD benefits who have accepted a lump sum payment.

Change contracts, booklets and employee communication to allow for:

- The immediate termination of employment if an employee accepts a lump sum payment of their LTD benefit.

- Waiver of rights to any disability plans, if reinstated

- Develop policies that allow for the termination of any continuation of benefits (health, dental, out of province medical, life insurance) plans if an employee accepts a lump sum benefit.

Evaluate implementing a termination of employment policy for employee who are not actively at work for long periods of time (2 years or more).

Consult with your employee relations legal advisor on any changes you make to these policies.

The Williamson Group is working with the insurance companies to resolve the following issues;

Advise the employer when they are going to make an offer of a lump sum settlement,

Having the offer include a voluntary termination of employment as a condition of the offer and,

Completing a waiver of rights for any loss as a result of the settlement that includes the employers' interests.

If you have any questions or concerns, please do not hesitate to contact your Williamson Group Account Manager or Steve Evans, Sr. Director of Business Development.