DBplus for Sole Practitioners and Law Firm Partners

Employer / Employee Relationship is Required
In order to participate in DBplus (or any registered pension plan) there must be an employee/employer relationship. Accordingly, partners or sole practitioners must have a personal services corporation (a “PC”) under which the PC is the employer and the sole practitioner lawyer or firm partner is the employee of the PC.

Personal Services or Professional Corporation (“PC”)
The PC would join as the employer and would be responsible for the “employer contribution”, and the lawyer, as an employee of the PC, will make the matching “employee contribution.” Allowable contributions must be made from “salary and wages” as reported to Canada Revenue Agency on the relevant tax slip issued by the PC as employer to the lawyer as its employee. Note, contributions may only be based on “salary and wages” paid by the PC to the lawyer; not dividend or capital payments which enjoy other tax advantages. This means the PC must pay some base amount of taxable wages, but those wages could be set by reference to overall limits on tax-assisted retirement savings under a registered pension plan – currently 18% of earnings up to $30,780 for the 2022 tax year.

There are costs associated with setting up and operating a PC. A sole practitioner or partner is responsible for determining the relative advantages and disadvantages of operating through a PC. Despite the erosion of many tax benefits associated with a PCs over the last couple of years, there are still several tax and financial benefits that remain, as well as liability protections that also ought to be considered.

Moving from a Lawyer to a Partner
A lawyer in a participating firm will accrue benefits as an employee. Upon being elevated to partnership, a lawyer will have planning choices: (1) terminate participation entirely and transfer the lump-sum value of the accrued benefit to a locked-in RRSP; (2) discontinue future benefit accruals in CAAT but remain a member of CAAT because the benefit already accrued will continue to be partially indexed to the AIW until retirement when it will then be paid as a monthly lifetime pension that will be partially indexed to CPI; or (3) set up a Professional Corporation (PC) that will become the participating employer, thereby allowing continued contributions and accrual of benefits.

Summary
Some partners and sole practitioners may already be eligible to participate in the Plan. Others will have to weigh the costs and benefits of establishing a PC to be able to participate. Speaking of costs, it is important to note that unlike RRSPs, there are no additional costs or fees. The costs of the plan are included in the employee and employer matching contributions used to provide benefits.