



## Planning with RDSPs

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People with disabilities and their families now have a new tool in their planning toolkit: the Registered Disability Savings Plan (RDSP).

An RDSP allows the plan holder to save up to \$200,000 in a tax-deferred account on behalf of a beneficiary who is 59 years of age or under and qualifies for the disability tax credit (DTC).

The DTC is a credit available to an individual with a severe and prolonged physical or mental disability. To qualify for the DTC, a medical doctor or other medical specialist must certify Form T2201, "Disability Tax Credit Certificate," which must then be approved by the Canada Revenue Agency.

The RDSP is largely modeled after the Registered Education Savings Plan (RESP) and its associated grant and bond incentive programs. As with RESPs, money contributed to an RDSP is not tax deductible, there are no annual contribution limits and earnings and growth on all contributions accrue tax-deferred.

### Canada Disability Savings Grants & Bonds

For many individuals and their families, the generous potential assistance available to RDSPs from the Government of Canada may be the primary motivation to set one up.

This assistance comes in two forms: an income-tested matching grant, known as the Canada Disability Savings Grant (CDSG), and the income-tested bond, known as the Canada Disability Savings Bond (CDSB).

CDSGs and CDSBs can be paid into an RDSP up until the end of the year in which the beneficiary turns 49.

The amount of the CDSG and CDSB that can be received is based on "family income." Whose family income? That depends on the age of the beneficiary.

If the RDSP beneficiary is under 18, it's the family income of the beneficiary's parents or guardian. Beyond age 18, however, it's the beneficiary's own family income that is relevant. If the beneficiary is under the care of an agency receiving an amount under the Children's Special Allowances Act (Canada), then family income is not an issue and the beneficiary qualifies for the highest amount of government assistance.

If family income is under \$75,769, the CDSGs are equal to 300% on the first \$500 of contributions and 200% on the next \$1,000 of contributions. So, by contributing \$1,500, the RDSP could collect CDSGs of \$3,500 (the maximum annual amount).

If family income is over \$75,769, the CDSG is limited to 100% of the first \$1,000 of annual contributions.

The CDSB is meant for lower-income families and is equal to \$1,000 per year when family income is below \$21,287. No contributions are required to receive the CDSB and it is phased out, pro-rata, based on family income between \$21,287 and \$37,885.

The maximum amount of CDSGs collectible during the beneficiary's lifetime is \$70,000 and the maximum available in CDSBs is \$20,000.

The application period for the 2008 CDSGs and CDSBs has been extended to March 2, 2009 to provide extra time to access the 2008 grants and bonds. Contributions made on or before March 2, 2009 will be eligible for 2008 grants and RDSPs opened as of March 2, 2009 will be eligible for 2008 bonds. Contributions to and RDSPs opened March 3 – December 31, 2009 will qualify for 2009 government assistance.

If you're thinking you can simply open up the account for a few years, collect some government CDSGs and CDSBs, and then withdraw all the money, think again. There is a special holdback rule that if anything is withdrawn from the RDSP, even only one dollar, all CDSGs and CDSBs paid into an RDSP in the preceding ten years must be repaid to the government. As a result, the plan issuer must prevent payments that would cause the value of plan assets to go below the government assistance holdback amount.

The rule was put into place to ensure that RDSPs are used to promote "long-term savings" for a disabled person as well as to prevent CDSGs and CDSBs from being essentially "recycled" through withdrawals to obtain future years' matching grants.

The holdback rule also requires the ten-year repayment should the beneficiary die or no longer be eligible to claim the DTC.

If the specific RDSP permits, withdrawals can be paid out at any time, but in any event, must begin no later than the end of the year the beneficiary turns 60. There are maximum limits as to how much can be paid out, and in cases where the total CDSGs and CDSBs exceed the amount privately contributed, there is a minimum payout requirement as well.

The payments must be made to the beneficiary, if he or she is alive, and there is no restriction on how the payments must be used.

In the event of the beneficiary's death, the RDSP assets must be paid out to the deceased beneficiary's estate, less any assistance holdback amount that must be repaid to the government, by the end of the year following the year of the beneficiary's death. This means the RDSP assets will pass in accordance with the beneficiary's will, or if there is no will, on an intestacy.

## Effect on Provincial Disability Programs and Benefits

Many government benefits, at both the federal and provincial level, are either income or asset-tested, such that any income earned or assets accumulated over certain government-determined thresholds either disqualify or significantly reduce the amount of government assistance.

When the RDSPs were first announced, the federal government took the lead to ensure that assets in an RDSP, when paid to the beneficiary, would not reduce the beneficiary's entitlement to federal income-tested benefits that are delivered through the tax system, such as the GST/HST credit or the Child Tax Benefit. In addition, RDSP payments to the beneficiary would neither reduce Old Age Security benefits nor Employment Insurance benefits.

All provinces and territories also provide various levels of income support for disabled persons, which are means-tested. At the time of writing,

nearly all provinces and two territories have announced either a full or partial exemption of RDSP assets and withdrawals from asset or income-tested provincial disability benefits.

## RDSPs vs. Trusts

Until the advent of the RDSP, most planning for persons with disabilities focused on the use of trusts. Specifically, a fully discretionary trust is often used to protect the assets, including an inheritance, on behalf of the beneficiary and to preserve the beneficiary's rights to collect asset-tested government benefits and entitlements.

Since the trust is fully discretionary and there is no direct entitlement of the beneficiary to the trust's assets, the general rule in most provinces is that funds in these trusts, set up either during the donor's lifetime or on the donor's death, can be provided for a beneficiary, without affecting the beneficiary's entitlement to provincial government benefits. This is consistent with the treatment of RDSP assets in most provinces, as discussed above.

Clearly the ability to collect the CDSGs and CDSBs will be a major factor in the decision to use an RDSP as opposed to a discretionary trust, assuming a contributor's funds are not unlimited. In addition, the costs to set up and maintain the trust (annual trustee fees, tax return filing fees, etc.) may reduce its ultimate benefit unless significant funds are available to settle the trust. However, funds contributed to an RDSP must be paid to the beneficiary or the beneficiary's estate.

There is no option to "sprinkle" assets among other family members while the beneficiary is alive or when the beneficiary dies. A trust likely affords more flexibility in this regard.

For wealthier parents, the RDSP will likely be used in conjunction with the discretionary trust to provide for a disabled child. For people with disabilities who want to plan for their future, the RDSP can offer them another means to help secure their retirement.

As with all planning strategies, you should seek the advice of a qualified financial advisor or tax advisor to discuss how RDSPs can form part of your overall plan.

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