Tax & Estate

Registered disability savings plans (RDSPs)

The RDSP was introduced in the 2007 Federal Budget, effective January 1, 2008. While there are some similarities with other registered savings vehicles, these plans have many unique characteristics and novel tax features that require a thorough review before determining how best to make use of them.

Unique needs of disabled families

This tax bulletin reviews RDSPs. For more general information on disability needs planning, ask for our *Tax & Estate InfoPage* titled "Disability tax and estate planning."

RDSP overview

An RDSP is a registered investment plan under the *Income Tax Act* (Canada) intended to encourage long-term savings by and for persons with disabilities. The core plan is modelled after the registered education savings plan (RESP) and its associated grant and bond incentive programs, but there are some significant differences.

As with an RESP, the money contributed to an RDSP is not tax-deductible, and government grants and bonds are deposited directly to the plan tax-free. Grants can be as much as 300% of personal contributions, and bonds may be obtained without making any personal contributions so long as an income test is satisfied.

Earnings and growth on all deposits accrue tax-free. The beneficiary is the only person entitled to any payments. He or she is the person taxed on those payments, with the taxable amount reduced by the proportion of personal contributions. As well, there are absolutely no restrictions placed on the use of RDSP payments so long as they are received by the beneficiary or applied for his or her benefit.

Who may benefit from an RDSP?

In order to commence a disability savings plan, the beneficiary of the plan must be a resident of Canada, have a valid Social Insurance Number (SIN), be less than 60 years of age and qualify for the disability tax credit (DTC) in the year of establishment. A person qualifies for the DTC where that person

- has one or more severe and prolonged impairments in physical or mental functions, and
- has obtained certification of the qualifying condition(s) (on the appropriate forms prescribed under tax regulations) from a medical practitioner.

So long as the person continues to be a DTC-eligible individual, the plan may continue to receive deposits, shelter growth and earnings from taxation and eventually distribute the accumulated funds to the plan beneficiary. The Canada Revenue Agency (CRA) Form T2201 titled *Disability Tax Credit Certificate* may be used to apply for the disability tax credit.

Designation of a plan beneficiary is irrevocable, and the beneficiary's right to receive plan payments cannot be assigned or surrendered.

Per the 2012 Federal Budget, where the issuer makes the assessment that the beneficiary is not contractually competent and the beneficiary has yet to have a legally authorized person or entity act on their behalf, a "qualifying family member" is permitted to establish an RDSP on behalf of the beneficiary. A qualifying family member includes a spouse, common-law partner (provided they are not living separate and apart by reason of a breakdown in their marriage) or a parent. Anyone other than a qualifying family member wishing to establish an RDSP for the beneficiary will require guardianship or legal representation for the beneficiary. This measure was extended to 2018 per the 2015 Federal Budget, and extended again to 2023 per the 2018 Federal Budget.

Administrative requirements

Establishing an RDSP

As a starting point, all RDSP issuers must execute a written compliance agreement with the Minister of Employment and Social Development Canada (ESDC) and deposit an approved specimen plan with the Minister of National Revenue.

A disability savings plan may then be established by agreement between the beneficiary and a qualified RDSP issuer. Alternatively, a "qualifying person" may act on behalf of the beneficiary to establish the plan. The definition of "qualifying person" is limited to

- a legal parent or legal representative of the beneficiary, if the beneficiary is a minor; or
- if the beneficiary is not contractually competent (whether because of age or otherwise) to enter into such an arrangement, a guardian, tutor or curator of the beneficiary under the laws of the province in which the beneficiary resides or a public department, agency or institution that is legally authorized to act for the beneficiary.

This means that if the beneficiary is of the age of majority and contractually competent, no one other than the beneficiary can enter into the arrangement with the issuer. Only if the beneficiary is a minor, or is not otherwise contractually competent, can anyone other than the beneficiary enter into the arrangement.

In addition to an issuer's administrative requirements, a Social Insurance Number must be provided for the beneficiary and for each of the "holders" (defined in the next paragraph) entering into the agreement before a registered plan may be set up.

Ongoing management

Once a disability savings plan is established, each person or organization contracting with the issuer is a "holder" of the plan. In practice, the holders have principal decision- making authority with respect to the plan, which could include, for example, directing investments and the amount and timing of payments.

While the funds in a plan may be transferred from one issuer to another, the transferor plan must be terminated in order for the receiving plan to become active. In effect, there is an absolute one-to-one relationship between a plan and a beneficiary as

- there can be only one beneficiary for a given plan, and
- at any given time, there can be only one plan for a particular beneficiary.

Given this tight restriction, it is important to know that a beneficiary does not automatically become a holder upon reaching the age of majority. There is, however, an explicit provision requiring that the plan be operated exclusively for the benefit of the beneficiary, with the legislative intention that the beneficiary can use this as a legal basis to acquire control from the existing holders, if necessary.

Managing contributions strategically

Communication is extremely important between holders and potential contributors, particularly in Will and estate planning. For example, a well-meaning grandparent who wishes to make a large lump-sum contribution to a grandchild's RDSP may put a planholder in a dilemma, as to whether to accept the contribution and lose future grants or decline the inheritance to preserve the plan's integrity.

Contributions

Contributions to a plan are neither tax-deductible when made, no matter who is the contributor, nor do they ever result in an income inclusion when withdrawn, for the plan, the beneficiary or anyone else.

So long as accumulated contributions have not exceeded the lifetime maximum of $200,000, a contribution can be made in a given year provided that the beneficiary is

- a DTC-eligible individual,
- age 59 or younger on December 31 of the year of contribution,
- a Canadian resident, and
- the beneficiary has not died.

While contributions may not be made during the time that a beneficiary is not a Canadian resident, that plan may otherwise continue in force for a non-resident beneficiary.

There is no annual contribution limit, but planholders should carefully consider current and future availability of grants and bonds before deciding how best to fund a plan.

Allowable contributors

Only holders are entitled to make contributions to a plan, though others may do so with the written consent of the holders. Again, this provides a regulated mechanism for holders to manage access to potential grants and bonds.

Unlike RESPs where the subscriber is entitled to a tax-free return of his or her deposits, once RDSP contributions have been committed into a plan, those funds can only come out of the plan via the rules for payments to or for the beneficiary. In other words, neither a holder nor a contributor has any property interest in any part of an RDSP.

Federal contributions summary table

When the RDSP was announced in 2007, Finance Canada estimated that as many as 180,000 beneficiaries would qualify for Canada Disability Savings Grant (CDSG) support, and of those, as many as 105,000 would also qualify for Canada Disability Savings Bond (CDSB) support. Since 2008, more than 100,000 RDSP accounts have been opened. The maximum amount of federal assistance available is as follows:

Family income thresholds (indexed) for 2019	Up to $ 31,120	$ 31,120 - $47,630	$ 47,630 - $95,259	Over $95,259
CDSG ($70,000 lifetime max.)				
3 to 1 (300%) on first $500	$1,500	$1,500	$1,500	-
2 to 1 (200%) on next $1,000	$2,000	$2,000	$2,000	-
1 to 1 (100%) on first $1,000	-	-	-	$1,000
CDSB ($20,000 lifetime max.)				
No personal contribution required	$1,000	$500†	-	-
Total assistance	$4,500	$4,000	$3,500	$1,000

† The actual amount will depend as the CDSB entitlement is phased out pro rata for those with an annual family income between $31,120 and $47,630.

An RDSP beneficiary that is under the care of a department, agency or institution for at least one month in the year will result in their grant or bond payments based on the allowance that is available to the department, agency or institution under the Children's Special Allowances Act.

What is the Canada Disability Savings Grant (CDSG)?

The CDSG encourages the use of an RDSP by matching up to 300% of annual contributions made into a plan to a lifetime maximum of $70,000. In any given year, CDSG is paid on unused entitlement up to an annual maximum of $10,500 (please refer to the section titled "Carryforward entitlements of CDSGs and CDSBs" on page 5 for more details). Qualification for a grant is determined by measuring "net family income" (defined below) against a threshold level, being $95,259 in 2019.

Where net family income is below the threshold level, the government will provide

- $3 for every $1 on the first $500 of contributions
- $2 for every $1 on the next $1,000 of contributions

Where net family income exceeds the threshold, the government will provide

- $1 for every $1 on the first $1,000 of contributions

"Net family income" is determined by considering the age and marital status of the beneficiary:

- For a beneficiary under 19, it is the combined net income of that person's parents
- For a beneficiary 19 or older, generally, it is that person's own net income, whether or not the beneficiary continues to live with his or her parents
- For a beneficiary 19 or older cohabiting with a spouse or common-law partner, it is the combined net income of those two persons

Grants are available for contributions made up until the end of the year in which the beneficiary turns 49.

In order to continue receiving grants and bonds beyond the beneficiary's 18th birthday, a new grant and bond application form needs to be completed. There is also the requirement to file income tax returns for the two years prior to assess the family net income levels that calculate grant and bond entitlements. Where no income tax returns are filed, no additional bonds will be paid and grant entitlements will be based on the assumption that the family net income is at the highest threshold.

What is the Canada Disability Savings Bond (CDSB)?

The CDSB is targeted to better support low- and modest-income families, children in care and adults without family support.

CDSB entitlements are not dependent on contributions. The maximum annual CDSB assistance is, for the year the plan is entered into, the CDSB carryforward entitlements available for the previous 10 years, plus the current year's entitlement (total of $11,000). For any year following the year the plan is entered into, maximum annual assistance is $1,000 up to the lifetime CDSB maximum of $20,000. The CDSB is decreased gradually for family net income up to an upper-income threshold. These income thresholds were originally stated in 2007 dollars, with indexing to be applied in following years. For 2019, the lower threshold is $31,120 and the upper threshold is $47,630. Where a beneficiary's family net income is between the lower threshold and the upper threshold, part of the CDSB will be phased out.

For residents of British Columbia, the Endowment 150 Fund provides a one-time Disability Bond payment of $150.

Payments

Purpose
Apart from some age and liquidity protections discussed below, there are no restrictions on the timing or amount of a disability assistance payment or on the use to which such a payment is put.

Timing and amount
There are two types of RDSP payments (excluding RDSP transfers and repayments):

- Lifetime disability assistance payments (LDAPs)
- Disability assistance payments (DAPs)

LDAPs must commence no later than December 31 of the year in which the beneficiary attains 60 years of age. The total of all LDAPs in a calendar year is subject to a maximum as follows:

$$\frac{\text{Fair market value at beginning of the year}}{[(\text{Greater of 80 or age at beginning of year}) + 3 - \text{age at beginning of year}]} + \begin{array}{l}\text{Total periodic payments paid}\\ \text{(or deemed paid) under}\\ \text{certain locked-in annuity}\\ \text{Contracts, to the plan trust in}\\ \text{the calendar year (if applicable)}\end{array}$$

This calculation is revisited each year, and for a beneficiary beyond expectancy age or with reduced expectancy, a greater payment is possible.

Generally a DAP is any payment from the RDSP to the beneficiary or to their estate. Whether a plan is allowed to make the more general DAP must be specified in the particular plan documentation. Such payments are not subject to any life expectancy constraint.

A primarily government-assisted plan (PGAP) is an RDSP that has received more grant and bond payments than contributions. Under a PGAP, the maximum amount that can be withdrawn is limited to the greater of 10% of the fair market value of the RDSP at the beginning of the year and the LDAP otherwise calculated.

Minimums and maximums
Further constraints may apply to the amount of payments depending on how much government assistance has been received in proportion to contributions. For any calendar year after 2013, the minimum and maximum payment from the plan is determined by the following factors:

- Whether the beneficiary has attained the age of 60
- Whether the total of past bonds and grants paid exceeds the total of all past contributions made
- Whether the holder has requested a DAP, LDAP or both

For a beneficiary with a medically certified life expectancy of less than five years, the rules may be relaxed. We recommend consulting your RDSP administrator with regard to determining the minimum and maximum payments as these calculations are complex.

Guarding against an unexpected plan deregistration
Deregistration can occur if the plan fails to comply with investment and reporting regulations, but generally the expectation is that it would occur only if the beneficiary is no longer a DTC-eligible individual. During consultations subsequent to the RDSP announcement in the 2007 Federal Budget, concern was expressed that a beneficiary might decline the DTC in order to force the collapse and payout of an RDSP. In response, the 2008 Federal Budget amended the legislation to protect against such a premature payout so long as the beneficiary remained factually entitled to the DTC, even if it was not actually received.

Assistance holdback amount
The potential value of government contributions could be quite significant relative to personal contributions. To assure that these support dollars are protected should the plan become deregistered, a holdback calculation assures that there is always a sufficient balance to pay back the government. This amount is referred to as the assistance holdback amount (AHA).

In essence, the holdback calculation keeps a running tally of all grants and bonds in the 10 years prior to any of the following events:

- The RDSP is terminated by the holder
- The plan ceases to be an RDSP
- Prior to 2014, a DAP is made (under certain conditions)
- Prior to 2014, the beneficiary ceases to be DTC-eligible
- Commencing from January 1, 2014, the beneficiary stops being eligible for the DTC and the election to allow the plan to remain open is not filed by the planholder (or the election has expired)
- The beneficiary dies

The occurrence of any of these events triggers repayment of the full assistance holdback amount, though earnings and growth on that amount need not be repaid.

RDSP beneficiaries that have a life expectancy of 5 years of less will be allowed annual RDSP withdrawals of up to $10,000 in taxable plan savings, as well as a pro-rated amount of plan contributions without being subject to the repayment rules. It is conditional on applying to have the RDSP qualify as an specified disability savings plan (SDSP).

As of 2014, RDSP withdrawals made within the AHA period will require the lesser of $3 for every dollar withdrawn and the maximum AHA amount to be repaid.

Entitlement and structure

While the RDSP program is generally modelled after the well-established RESP program, one of the most significant departures from that program is the manner by which accumulated RDSP funds may be accessed.

In an RESP, a subscriber may obtain a return of his or her contributions, along with any growth in the plan (subject to penalty tax). By comparison, other than plan-to-plan transfers and repayment of government assistance, the beneficiary is the only person with a right to payments from an RDSP.

Furthermore, one cannot separately access the non-taxable contributions. An RDSP payment is a blended return of contributions (non-taxable) and grants, bonds and earnings on all deposits (taxable). Each payment dollar is therefore partially taxable, with the non-taxable component being the proportion of personal contributions to the total value of the plan's assets at the time of payment. This has a similar effect as that of a systematic withdrawal plan (SWP), except that the income component here is fully taxable, whereas SWP growth is generally only one-half taxable as a capital gain. For more information, ask for our *Tax & Estate InfoPage* titled *Systematic withdrawal options*.

Effect on income-tested government supports

While the beneficiary is the taxable entity with respect to the payments, amendments have been made to federal legislation to neutralize the effect this would otherwise have on income-tested supports and tax credits. In particular, RDSP income will not affect entitlement to the GST credit, the Canada Child Benefit (CCB), Old Age Security (OAS), Guaranteed Income Supplement (GIS) and Canada Pension Plan (CPP) payments.

The effectiveness of the RDSP program will hinge on how well it dovetails with support programs administered provincially. All provinces and territories have taken action to partially or fully exempt either RDSP assets and/or RDSP income from provincial income and asset-tested disability benefits.

Carryforward entitlements of CDSGs and CDSBs

As of 2011, CDSG and CDSB entitlements will be determined and paid into an RDSP for the preceding 10 years based on the net family income for that particular year. An RDSP may "catch up" on previously unpaid CDSG or CDSB balances up to the following limits provided the RDSP beneficiary qualifies for the DTC and was of appropriate age:

- Maximum annual CDSG payment is capped at $10,500
- Maximum annual CDSB assistance is, for the year the plan is entered into, the CDSB carryforward entitlements available for the previous 10 years plus the current year's entitlement. For any year following the year the plan is entered into, the amount is $1,000 up to the lifetime CDSB maximum of $20,000

The grant matching rates and the CDSG entitlement will be determined each year based on the family income of the second preceding year. For example, the CDSG entitlement in 2019 will be determined based on the family income in 2017. Any unused entitlement will be carried forward to future years. The entitlements do not accrue during the years a beneficiary is not eligible for the DTC or not a resident of Canada. When carryforward entitlements are claimed with a contribution in a later year, the matching rates on the contribution will be paid in descending order. The contributions will use up any grant entitlements at the highest available matching rate first, from oldest to newest, followed by lower rates. The priority order for matching CDSG entitlements is indicated below, with past grant eligibility ending December 31 the year the beneficiary turns 49 years of age.

If the family income is below the threshold ($95,259 for 2019), the CDSG matching rates are

- 300% ($3 for every $1) matching rate on the first $500 contributed into the RDSP
- 200% ($2 for every $1) matching rate on the next $1,000 contributed into the RDSP

If the family net income is above the threshold, the CDSG matching rate is

- 100% ($1 for every $1) on the first $1,000 contributed into the RDSP

RDSP example:
A qualified disabled child is born in 2013, but the parent does not open an RDSP until 2019. The family net income is below the threshold in the year the plan was opened and the years after. The family would like to catch-up on all of its carryforward entitlements, on top of maximizing current-year entitlements as soon as they can. Since the maximum CDSG that can be paid in any given year is capped at $10,500, in order to maximize and catch-up on all of the CDSG carryforward entitlements, the client needs to make the following contributions over a three-year period.

The CDSG and CDSB entitlements are as follows:

Year	3:1 CDSG Contribution	3:1 CDSG Entitlement	2:1 CDSG Contribution	2:1 CDSG Entitlement	CDSB Entitlement
2013	$500	$1,500	$1,000	$2,000	$1,000
2014	$500	$1,500	$1,000	$2,000	$1,000
2015	$500	$1,500	$1,000	$2,000	$1,000
2016	$500	$1,500	$1,000	$2,000	$1,000
2017	$500	$1,500	$1,000	$2,000	$1,000
2018	$500	$1,500	$1,000	$2,000	$1,000
2019	$500	$1,500	$1,000	$2,000	$1,000
2020	$500	$1,500	$1,000	$2,000	$1,000
2021	$500	$1,500	$1,000	$2,000	$1,000
Total	**$4,500**	**$13,500**	**$9,000**	**$18,000**	**$9,000**

The contributions and support that will be received for 2019 through to 2021 are as follows:

Year	Pool	Contribution	CDSG Received	Carryforward contribution to future years	Equivalent CDSG carryforward entitlement	CDSB Received‡	Total Support Amount
2019	3:1 Pool	$3,500	$10,500	$0	$0	$7,000	$17,500
	2:1 Pool	$0	$0	$7,000	$14,000		
				Total contributions in 2019	**$3,500**		
2020	3:1 Pool	$500	$1,500	$0	$0	$1,000	$11,500
	2:1 Pool	$4,500	$9,000	$3,500	$7,000		
				Total contributions in 2020	**$5,000**		
2021	3:1 Pool	$500	$1,500	$0	$0	$1,000	$11,500
	2:1 Pool	$4,500	$9,000	$0	$0		
				Total contributions in 2021	**$5,000**		
				Total contributions from 2019 to 2021	**$13,500**		
				Total support amount received from 2019 to 2021	**$40,500**		

‡ Contributions are not required to receive CDSB.

Shortened life expectancy

The shortened life expectancy rules allow for increased access to RDSP assets without the repayment of the assistance holdback amount, within certain limits. To be eligible, a certification must be acquired from a medical practitioner indicating a life expectancy of five years or less based on the beneficiary's current state of health. Additionally, a prescribed election is to be filed along with the medical practitioner's certification for approval by the RDSP issuer, who then must inform ESDC.

Generally, the effect of the election is that the RDSP becomes a specified disability savings plan (SDSP). SDSP withdrawals can be made without triggering the 10-year repayment of the assistance holdback amount provided the taxable portion of the withdrawal (CDSG, CDSB and investment income) does not exceed $10,000 annually. It is possible, therefore, that the withdrawal may exceed $10,000 when the non-taxable portion (RDSP contributions) is taken into consideration. Taxable withdrawals exceeding $10,000 will trigger the normal 10-year repayment of the assistance holdback amount.

Some additional rules have been imposed once a shortened life expectancy election has been made and the plan becomes an SDSP. Namely, no further contributions will be allowed except for tax-deferred rollovers (this does not include education rollover from RESPs). CDSG and CDSB entitlements will stop being paid, including the ability to carry forward unused grant and bond entitlements. Upon death of the RDSP beneficiary, any remaining CDSG and CDSB acquired in the previous 10 years must be repaid. Finally, the minimum mandatory payment from the RDSP that is generally required when the RDSP beneficiary turns 60 years of age must begin the year following the election.

A reversal of a shortened life expectancy election is possible, with CDSG and CDSB entitlements reinstated the year following the year the reversal is made. While it's possible to make a subsequent shortened life expectancy election, the same eligibility criteria need to be met and can only be made 24 months after a preceding election ceases.

Determination of eligibility for DTC

The 2011 amendment to the assessment rules provides taxpayers the ability to request the CRA to make a determination of DTC eligibility. The CRA is required to ascertain whether the individual is eligible through a notice of determination. An individual can submit CRA Form T2201 titled *Disability Tax Credit Certificate* to apply for the DTC. Completing this form requires the assistance of a qualified practitioner.

This amendment transpired as a result of a 2010 Tax Court of Canada case (*Tozzi v. The Queen* 2010 TCC 545) where the taxpayer's request for an income tax return assessment was denied by the court. The court cited that the *Income Tax Act* (Canada) did not give the proper jurisdiction to change a nil assessment (as was the case with the taxpayer), which could only be done at the Federal Court of Appeal, likely at a greater cost. The taxpayer requested the assessment to determine eligibility for the DTC that is needed to establish an RDSP.

Loss of DTC eligibility – Election

Continued eligibility for the DTC is a condition for continued registration of an RDSP. An RDSP must be closed by December 31 of the second consecutive year in which the beneficiary was no longer eligible for the DTC. However, effective for 2014, an election can be made to keep the plan open for up to five years if a medical doctor certifies that the beneficiary is likely to become eligible for the DTC in the foreseeable future. During the election period, contributions to an RDSP are not permitted. Grant and bond entitlements will not accrue during this time. An RDSP's status will be restored, and the election will be cancelled as soon as the beneficiary becomes eligible for the DTC again.

Budget 2019 proposes to eliminate the requirement to close an RDSP when a beneficiary no longer qualifies for the DTC starting in 2021. Also, current RDSP rules indicate that where an RDSP beneficiary becomes ineligible for the disability tax credit, an election can be filed to extend the period in which the RDSP may remain open. Budget 2019 introduces changes in respect to the first full calendar year in which the RDSP beneficiary is no longer eligible for the disability tax credit:

- Removing the condition that requires medical certification that the RDSP beneficiary will be eligible for the disability tax credit in the future in order for the RDSP to remain open
- Making withdrawals from an RDSP subject to the proportional repayment rules in respect to the assistance holdback amount, which will be modified based on the beneficiary's age
- Permitting rollovers from a deceased's RRSP or RRIF to an RDSP of a financially dependent infirm child only if the rollover occurs by the end of the fourth calendar year following the first calendar year throughout which the beneficiary is ineligible for the disability tax credit
- Using the modified assistance holdback when there is a request to close the RDSP
- Applying the regular rules to that RDSP if the RDSP beneficiary regains eligibility for the disability tax credit

The measures are to apply after 2020; however, transitional measures permit RDSP continuance where an RDSP beneficiary becomes ineligible for the disability tax credit after March 19, 2019 and before 2021.

Taxation of withdrawals
Disability payments generally consist of contributions, investment income, CDSGs and CDSBs. Non-deductible contributions are withdrawn out of the plan as non-taxable payments. Investment income, CDSGs and CDSBs are fully included as income and taxable to the RDSP beneficiary when received. These taxable portions are reported on a T4A slip as RDSP income. However, the disability income tax credit, along with the basic personal exemption amount, will help alleviate any taxes payable on the RDSP income received.

Rollover of an Accumulated Income Payment (AIP) from an RESP
Provided that certain conditions are met, an AIP can be rolled over from an RESP to an RDSP. The beneficiary of each plan must be the same individual and must meet the existing residency and age requirements with regard to the RDSP conditions. The RESP subscriber and RDSP holder may jointly elect to roll over an AIP to an RDSP if either of the following two conditions is met:

- The RESP has existed for at least 10 years and every beneficiary has attained the age of 21 and is not pursuing a post-secondary education, or the RESP account has existed for longer than 35 years
- The beneficiary has a severe and prolonged mental impairment that will prevent the individual from enrolling in a qualifying educational program

The contribution will reduce available contribution room and will not attract the CDSG and will reduce the available RDSP contribution room. Additionally, these amounts will be included in the taxable portion of RDSP withdrawals made to the beneficiary. This provision is particularly useful for parents who have saved for their child's education using an RESP, but whose child was unable to attend post-secondary school due to impairment. Government incentives cannot be rolled over and will be repaid to the ESDC. Also, the RESP must be terminated by the end of February of the year following the year in which the rollover occurs.

CRA Form RC435, *Rollover from a Registered Education Savings Plan to a Registered Disability Savings Plan*, or another form provided by the RESP promoter must be completed and remitted to the RDSP issuer with a copy kept on file.

Estate planning with an RDSP
To assist families with infirm members, enhancements to the rollover provisions for registered retirement savings plans (RRSPs) and registered retirement income funds (RRIFs) were introduced. Specifically, upon the death of an RRSP or RRIF annuitant, proceeds may be rolled over to an RDSP for an eligible individual. An eligible individual is a financially dependent infirm child or grandchild who is eligible to be a RDSP beneficiary and meets the applicable age and residency requirements for RDSP contributions.

The rollover limit is the lesser of the RDSP beneficiary's available RDSP contribution room and the $200,000 lifetime RDSP contribution limit. Rolled-over amounts will be treated as private contributions, thus reducing contribution room, and will not attract the CDSG.

These rolled-over amounts will not have been subject to tax (as a result of the tax deferral) and, accordingly, will be included in taxable income when eventually removed from the RDSP as a DAP or LDAP.

Similar to other rollover provisions available upon the death of an RRSP or RRIF annuitant, the RDSP beneficiary or his or her legal representative will be required to complete CRA Form RC4625, *Rollover to a Registered Disability Savings Plan* (RDSP) *Under Paragraph 60(m)*, or a form provided by the RDSP issuer to designate and transfer such amounts to an RDSP.

The rollover rules are effective as of July 2011. Transitional rules were introduced to ensure that the rollover option would be extended to scenarios where an RRSP or RRIF annuitant died after December 31, 2007 and before 2011, so long as qualifying conditions are satisfied, which includes the rollover transaction being completed before 2012.

Death

Death of an RDSP holder
In general, the holder of an RDSP can be the parent(s) of the beneficiary, a guardian, tutor, public department or any other qualified individual or body. Additionally, if the beneficiary is over 18 and legally able to enter into a contract, the beneficiary can also be the planholder.

In the event that an RDSP holder who is not the beneficiary dies, the deceased must be removed from the plan as a holder. Where this occurs, the RDSP rules state that a new holder must be named in order for the plan to carry on. The successor holder of the RDSP could be the beneficiary (provided they are the age of majority and contractually competent), a surviving parent or qualified relative, the beneficiary's guardian or a public trustee, to name a few. If a qualified person has not been named in the deceased holder's Will, the assignment of a successor RDSP holder may have to be determined by the applicable courts or the Office of the Public Guardian and Trustee.

Death of an RDSP beneficiary
As discussed above, an RDSP can be managed either by a qualified holder or the beneficiary. In either case, where the beneficiary of an RDSP has died, the RDSP must be closed, all amounts remaining in the plan must be paid out to the beneficiary's estate and the plan must be terminated by December 31 following the calendar year in which the beneficiary dies. Any grants or bonds deposited in the plan in the 10 years prior to the beneficiary's death must be returned to the government (this is known as the AHA amount). However, any accumulated growth on these amounts need not be repaid. All other grants, bonds and accumulated growth in the plan will be distributed and taxable to the beneficiary's estate. As with RESPs, original RDSP contributions will be distributed to the beneficiary's estate tax-free. In these instances, the RDSP assets would also be subject to probate.

Conclusion

The RDSP structure presents disabled persons and their families with a tax-effective means for long-term savings. Coupled with generous support from the CDSG and CDSB programs, these plans can be a central feature of income and wealth management for disabled beneficiaries.

For more information about this topic, contact your advisor, call us at 1.800.874.6275 or visit our website at invesco.ca.

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