

GENERAL RULING/ORDER 45-901
SELF-DIRECTED REGISTERED EDUCATION SAVINGS PLANS

IN THE MATTER OF
THE SECURITIES ACT, 1988, S.S. 1988, c. S-42.2

AND

AND IN THE MATTER OF SELF-DIRECTED REGISTERED
EDUCATION SAVINGS PLANS

RULING
(Section 83)

WHEREAS an application has been received by the Saskatchewan Securities Commission (the "Commission") from the staff of the Commission for a ruling pursuant to clause 83(1)(a) of *The Securities Act, 1988, S.S. 1988, c.S-42.2* (the "Act") that the provisions of sections 27 and 58 of the Act shall not apply to the trade of self-directed education savings plans which have been approved by Revenue, Canada, Taxation pursuant to the provisions of the Income Tax Act (Canada) (the "ITA") and which subsequently become registered as registered education savings plans under the ITA upon the requisite number of subscribers having been obtained (a "RESP");

AND WHEREAS IT has been represented to the Commission that:

1. Sub-clause 2(1)(ss)(xv) of the Act defines a security to include "any document constituting evidence of an interest in a scholarship or educational plan or trust";
2. A RESP issues a document evidencing an interest in the RESP to a person who subscribes for an interest in the RESP (the "subscriber");
3. Contributions by a subscriber to a deposit-type or self-directed RESP are not pooled with the funds of other subscribers but are either deposited directly in an account in the subscriber's name or used, at the subscriber's sole discretion, to purchase other investments as may be permitted under applicable law;
4. The subscriber maintains control and direction over the subscriber's RESP, directing the manner in which the assets of the subscribers RESP are to be held, invested or reinvested;
5. The subscriber's control and direction over the subscriber's RESP parallels the control and direction exercised by a person subscribing to a self-directed registered retirement savings plan under the ITA (a "RRSP"), which RRSP is not subject to the registration and prospectus

requirements of the Act;

6. Prior to February 20, 1990, the ITA required a RESP to file a prospectus with a securities regulatory authority in Canada;
7. The most recent federal budget has proposed that, effective February 20, 1990, a RESP not be required to file a prospectus with a securities regulatory authority in Canada in order to be registered under the ITA where the RESP is not required to file a prospectus under applicable securities law;

AND WHEREAS the Commission is satisfied that it would not be prejudicial to the public interest to grant the Ruling:

IT IS HEREBY RULED, pursuant to clause 83(1)(a) of the Act, that sections 27 and 58 of the Act do not apply to a trade in a RESP to a subscriber, provided that:

1. The application form provided to a Subscriber for purposes of establishing a RESP includes, or is accompanied by, a copy of the terms and conditions of the RESP and any additional documentation which may be necessary to provide disclosure of the income tax consequences of investing in a RESP, the responsibilities of the Trustee under the RESP, the refund provisions, the types of investments in which the assets of the RESP may be invested or re-invested, the designation of a beneficiary under the RESP, the nature of any payments which may be made by the RESP to the beneficiary or otherwise and any fees and charges associated with investment in or withdrawal from the RESP (the "Disclosure Document");
2. The contributions by the subscriber are not pooled with the funds of other subscribers but are either deposited directly in an account in the subscriber's name or used, at the subscriber's sole discretion, to purchase other investments as may be permitted under applicable law;
3. The RESP has been approved by Revenue Canada, Taxation.

DATED at the City of Regina, in the Province of Saskatchewan, this 24th day of October, 1990.

"Marcel de la Gorgendière"
Marcel de la Gorgendière, Q.C.
Chairman