

Planning with RDSPs

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

An RDSP allows the plan holder to contribute up to \$200,000 to 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 qualified medical practitioner must certify on Form T2201, "Disability Tax Credit Certificate," that the individual meets certain conditions. The form must then be approved by the Canada Revenue Agency (CRA).

The RDSP is partly 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 and bonds

For many individuals and their families, the generous potential assistance from the Government of Canada in RDSPs 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.

From the RDSP beneficiary's year of birth until December 31 of the year the beneficiary turns 18, it's the family income of the beneficiary's parents or guardian. Beginning the year the RDSP beneficiary turns 19, it's the beneficiary's own family income that is relevant. If the beneficiary is under the care of an agency and is 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 annual family income is less than or equal to \$93,208 (2018 amount), the CDSGs are equal to 300% on the first \$500 of annual contributions and 200% on the next \$1,000 of annual contributions. So, by contributing \$1,500, the RDSP could collect CDSGs of \$3,500 (the maximum annual amount). If annual family net income is over \$93,208 (2018 amount), 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 annual family income is less than or equal to \$30,450 (2018 amount). No contributions are required to receive the CDSB and it is phased out, pro-rata, based on annual family income between \$30,450 and \$46,605 (2018 amount).

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

Since 2011, retroactive CDSGs and CDSBs can be collected based on new contributions.

When an RDSP is opened, CDSGs and CDSBs will ultimately be paid on unused entitlements for the preceding 10 years (but no earlier than 2008) up to

an annual maximum of \$10,500 and \$11,000, respectively. The CDSG unused entitlement is applied first to the highest available matching rate, followed by any grant entitlement at lower rates. Both CDSGs and CDSBs will be based on the beneficiary's family income in those particular years.

Here's a simplified example of how CDSGs and CDSBs work generally. Mary qualified for the disability tax credit this year. She opens an RDSP and contributes \$1,500. Mary has always had family income below the minimum threshold for grants and bonds. Figure 1: Example of grants and bonds that may be available with a \$1,500 contribution shows the amounts of CDSG and CDSB that she is eligible to receive.

Figure 1: Example of grants and bonds that may be available with a \$1,500 contribution

1. Grant		
Maximum annual grant amount allowed by CRA	Total grant Mary will receive	
\$3 for every \$1 on the first \$500 (300%)	$500 \times 300\% =$	\$1,500
\$2 for every \$1 on the next \$1,000 (200%)	$1,000 \times 200\% =$	<u>\$2,000</u>
	Total grant to which Mary is entitled:	\$3,500
2. Bond		
Maximum annual bond amount allowed by CRA	Total bond Mary will receive	
\$1,000 per year (Note: \$1,000 is paid even if no contribution is made, provided income was below the family income threshold in relevant years)	Total bond to which Mary is entitled	\$1,000
Total amount of grant and bond that Mary will receive (\$3,500 total grant + \$1,000 total bond):		\$4,500

Other important information about Mary's RDSP contribution

Mary's \$1,500 RDSP contribution this year attracts a \$3,500 grant (annual maximum). She also receives a \$1,000 bond based on her family income. At the end of the year, Mary will have a plan balance of \$6,000, which is the total of contributions (\$1,500), grant (\$3,500) and bond (\$1,000).

While we have kept this example simple, the article titled [Advanced Planning with RDSPs](#)¹ addresses the scenario where the RDSP holder qualifies for the disability tax credit in a previous year and contributes enough to be eligible to receive cumulative CDSG and CDSB entitlements.

Withdrawals from an RDSP

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. Repayment rules have been put in place to promote RDSPs being used for "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 grant.

RDSP issuers must set aside an amount equal to total CDSGs and CDSBs paid into the RDSP over the previous 10 years (less amounts withdrawn). This is called the "assistance holdback amount."

A "proportional repayment rule" applies to withdrawals made from an RDSP after 2013. For each \$1 withdrawn from an RDSP, \$3 of any CDSGs or CDSBs that were paid into the plan in the 10 years preceding the withdrawal must be repaid, up to a maximum of the assistance holdback amount.

If the RDSP is terminated or deregistered and no election to extend the RDSP has been made, or the RDSP beneficiary ceases to be eligible for the DTC or passes away, all CDSGs and CDSBs paid into the RDSP in the preceding 10 years must be repaid to the government.

If the specific RDSP permits, withdrawals can be paid out at any time but must begin no later than the end of the year the beneficiary turns 60. In cases where the total CDSGs and CDSBs exceed the amount privately contributed, there are minimum and maximum payout limits on the age 60 payments. The minimum age 60 payment limit will apply to all plans, even those where private contributions exceed government assistance.

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.

Shortened life expectancy

When a beneficiary has a shortened life expectancy (five years or less), the holder(s) of an RDSP may choose to designate it as a Specified Disability Savings Plan (SDSP). Withdrawals from an SDSP will not trigger a repayment of grants and bonds, as long as the sum of the taxable parts of all withdrawals made in the year generally does not exceed \$10,000. While this provides greater flexibility to access savings from an RDSP, this comes at a cost to the RDSP – the holder is no longer allowed to contribute and the beneficiary is no longer entitled to any grant or bond. In addition, the beneficiary cannot carry forward any grant or bond entitlement for those years under the plan. For a more detailed discussion on this topic, please refer to the report [Advanced Planning with RDSPs](#).²

Death of an RDSP beneficiary

In the event of the beneficiary's death, grants and bonds paid in the preceding 10 years must be repaid to the government and the remaining 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.

Rollover of registered assets to an RDSP

Proceeds of a deceased individual's Registered Retirement Savings Plan (RRSP) can be transferred on a tax-free rollover basis to the RDSP of the deceased individual's financially dependent disabled child or grandchild. These rules also apply to amounts contributed to an RDSP using Registered Retirement Income Fund (RRIF) proceeds, or certain lump-sum amounts paid from a Registered Pension Plan (RPP) or Specified Pension Plan. The holder and beneficiary of the RDSP (if the beneficiary is not the holder) must

agree for the rollover amount to go into the RDSP. Any rollover will impact contribution limits.

Rollover of RESP investment income

Parents who save in a Registered Education Savings Plan (RESP) for a child with a severe disability can transfer the investment income earned on a tax-free (rollover) basis to the child's RDSP.

The CESG and CLB in the RESP must be returned to the government and the RESP must be terminated by the end of February of the year after which the rollover to the RDSP is made.

The plans must share a common beneficiary and the RESP must allow accumulated income payments. Also, one of the following criteria must be met:

- The beneficiary must have a severe and prolonged impairment that can reasonably be expected to prevent the beneficiary from pursuing post-secondary education; or
- The RESP must have been in existence for at least 10 years and each of the RESP beneficiaries is at least 21 years of age and not pursuing post-secondary education; or
- The RESP must have been in existence for more than 35 years.

The RESP subscriber and a holder of the RDSP must agree for the rollover amount to go into the RDSP.

RDSP holders must note that the RESP investment income rolled over to an RDSP cannot exceed, and will reduce, the beneficiary's available RDSP contribution room, while not attracting CDSGs. The rollover amount will be included in the taxable portion of an RDSP withdrawal.

Effect on federal and 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

collected over certain government-determined thresholds either disqualify or significantly reduce the amount of government assistance.

Assets in an RDSP, when paid to the beneficiary, do 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 Canada Child Benefit. In addition, RDSP payments to the beneficiary reduce neither Old Age Security benefits nor Employment Insurance benefits.

Generally provinces and territories also provide various levels of income support for disabled persons, which are means-tested. All provinces and territories have announced either a full or partial exemption of RDSP assets and withdrawals from provincial income- or asset-tested disability benefits.

RDSPs vs Trusts

Until the creation of the RDSP, most planning for persons with disabilities focused on the use of trusts. Specifically, a fully discretionary trust, where there is no direct entitlement of the beneficiary to the trust's assets, 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. In some provinces, 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.

Clearly the ability to collect 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 a trust (for example, annual trustee fees, tax return filing fees) may reduce a trust's 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.

With an RDSP, there is no option to “sprinkle” assets among other family members while the beneficiary is alive or when the beneficiary dies. A trust gives more flexibility in this regard. You need to consult with your legal advisor to set up this kind of trust.

For wealthier parents, an RDSP will likely be used with a discretionary trust to provide for a disabled child. For people with disabilities who want to plan for their future, an 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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¹ The report *Advanced Planning with RDSPs* is available online at https://www.cibc.com/content/dam/personal_banking/investments/pdfs/advanced-RDSPs-en.pdf.

² Ibid.



Disclaimer:

As with all planning strategies, you should seek the advice of a qualified tax advisor.

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