An In-Depth Look at RDSPs

The Registered Disability Savings Plan (RDSP) is designed to assist individuals with disabilities in saving for their long-term financial needs. It offers tax-deferred investment growth, generous government matching grants and bonds as well as an opportunity for family members to assist with the contributions. This article will explain how the plan works and look at some ways to fund it.

Opening an RDSP

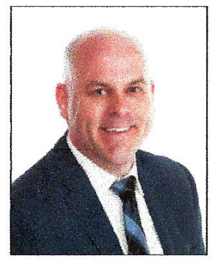
To open an RDSP, there are several conditions that need to be met.

First, an RDSP needs a beneficiary. The beneficiary is the person who will receive the funds in the RDSP in the future. Each beneficiary is entitled to only one RDSP and there can be only one beneficiary per RDSP. The beneficiary must:

- Be under 60 years of age (if the beneficiary is 59, the RDSP must be opened before the end of the calendar year in which the beneficiary turns 59);
- Be a Canadian resident at the time the plan is opened;
- Have a valid Social Insurance Number (SIN); **and**
- Be eligible for the Disability Tax Credit (DTC).

To qualify for the DTC, a person must have a severe and prolonged impairment in physical or mental functions that is certified by a medical practitioner on Form T2201, Disability Tax Credit Certificate. Once accepted by the Canada Revenue Agency (CRA), the individual will be eligible for the DTC. A copy of the form and other information is available on the CRA website.

Second, an RDSP must have a holder. The holder manages the RDSP, which includes opening the plan, making or approving contributions on behalf of the beneficiary and authorizing withdrawals from the plan. The holder is generally the beneficiary. However, if the beneficiary is unwilling or unable to be the holder, someone else may be the holder in the following circumstances:



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- For beneficiaries who are under the age of majority in their province or territory of residence, a qualifying person can be the holder and open an RDSP for the beneficiary. A qualifying person can be a legal parent, or a person, public department, agency or institution who is legally authorized to act for the beneficiary. The beneficiary will be the holder when they reach the age of majority provided the beneficiary is competent. The previous holder prior to the beneficiary reaching the age of majority can remain on the account if they are the legal parents should they wish, and the adult beneficiary could be added as a joint holder. You will have to check with the plan provider with which you are establishing an RDSP to determine if they allow for joint holders.
- For beneficiaries who have attained the age of majority but are not legally competent to enter into a contract, the holder may be a qualifying person who is a person legally authorized to act for the beneficiary.

For beneficiaries who have attained the age of majority, but in the opinion of the RDSP issuer, the individual's contractual competency to enter into a plan is in doubt, a qualifying family member (QFM) can be a holder. The legislation permits a QFM to become the holder of an RDSP before December 31, 2023. A QFM includes the beneficiary's spouse, common-law partner or parent. A QFM who becomes a plan holder before the end of 2023 could remain the plan holder after 2023. Provided the holder is not the beneficiary of the plan, they don't have to be a Canadian resident but will need a valid SIN or business number.

Contributing to an RDSP

RDSPs do not have an annual contribution limit, but there is a lifetime contribution limit of $200,000. Annual contributions made to the RDSP may attract Canada Disability Savings Grant (CDSG) payments. In addition, the plan may be eligible to receive the Canada Disability Savings Bond (CDSB) even if no contributions are made. Both types of payments are discussed in the next section. There is a limit on the amount of CDSG and CDSB that can be received annually; therefore, if the maximum lifetime contribution is made to the plan in one year, the RDSP will not be able to receive the full lifetime CDSG or CDSB.

Contributions can be made to the RDSP until December 31st of the year in which the beneficiary turns age 59. To be eligible for the CDSG, contributions must be made by the end of the calendar year in which the beneficiary turns age 49. If the beneficiary qualifies, the CDSB is paid to the plan until the end of the year in which the beneficiary turns age 49. See the section on government matching for more details on the grant and bond.

Contributions to the RDSP can only be made while the beneficiary is a Canadian resident.

Any person can contribute to an RDSP. If the contributor is not the holder of the RDSP, they will need the written consent of the holder of the plan.

Government matching grants and bonds

To accelerate the growth of an RDSP, the federal government offers two types of incentives, the Canada Disability Savings Grant (CDSG) and the Canada Disability Savings Bond (CDSB). These government grants and bonds are paid directly to the plan and can significantly increase accumulations over time. The amount of grants and bonds received is dependent on family income.

From the year the beneficiary is born to the year the beneficiary becomes age 18, family income is the income used to determine the Canada Child Benefit (CCB) for that beneficiary. Generally, this is the parents' income. From the year the beneficiary turns 19 until the RDSP is closed, the beneficiary's family income is calculated based on his or her income plus his or her spouse's income. Family income for CDSG and CDSB purposes for a particular year is adjusted family net income of the applicable individual(s) from the second previous tax year (i.e. 2016 income for 2018). Adjusted family net income is based on line 236 (net income) of an individual's tax return with certain adjustments.

The CDSG provides matching contributions of 100%, 200% or 300% annually, up to an annual maximum of $3,500, excluding unused entitlements (see next section), and a lifetime limit of $70,000. The level of family income determines the amount of grant that is paid. For grant purposes, the family income limit is generally where the federal 26% tax bracket starts and is indexed annually.

Where family income is less than or equal to the annual maximum threshold, the CDSG is 300% on the first $500 of contributions plus 200% on the next $1,000:

Net family income less than or equal to $93,208 (2018)		
Amount contributed to RDSP:		$1,500
Plus CDSG (High Rate):	**$500 x 300%**	$1,500
Plus CDSG (Mid Rate):	**$1,000 x 200%**	$2,000
TOTAL IN PLAN:		**$5,000**

Where family income exceeds the annual threshold, the CDSG is 100% of the first $1,000 contributed (matching dollar for dollar).

The CDSB is paid to low-income families, regardless of whether contributions are made to an RDSP. Once the plan has been opened, the maximum payment is $1,000 annually, to a lifetime maximum of $20,000.

To qualify for the $1,000 annual maximum CDSB, family income must be less than or equal to the maximum annual net family income of $30,450 for 2018. If the family income is above this threshold, the CDSB is reduced on a prorated basis, reaching zero at a certain level of income ($46,605 for 2018). These thresholds are adjusted for inflation annually.

Claiming unused grant and bond entitlements

Qualifying RDSP beneficiaries are entitled to claim previously unused CDSGs and CDSBs going back 10 years or to 2008, when RDSPs were first introduced, whichever is less.

Unused grant and bond entitlements will be calculated automatically based on your family income for those past years. To qualify for past grant and bond entitlements, you must:

- Be qualified for the DTC in each year of entitlement;
- Be a Canadian resident when the contribution is made and for the years of entitlement;
- Have a valid SIN;
- Be age 49 or under at the end of the calendar year when the contribution is made; and
- Have not used up your $200,000 lifetime contribution limit (this only applies to unused grant entitlements).

The amount of the grant and bond carry forward you are eligible to receive will depend on your family income in those years and on how much you've contributed to your RDSP.

Starting with the first year of entitlement, corresponding rates will be paid on RDSP contributions using up any grant entitlements at the highest rate first, next by any grant entitlements at lower rates.

Grants and bonds will be paid on unused entitlements up to:

- The $10,500 annual maximum for grants (up to the lifetime limit of $70,000)
- The $11,000 annual maximum for bonds (up to the lifetime limit of $20,000)

Withdrawing from an RDSP

Generally in order to make a withdrawal from the plan, the holder's consent is required. There is an exception when the plan is a Primarily Government Assisted Plan (PGAP) and the beneficiary is aged 27-58; holder's consent is not needed for withdrawals up to a specified maximum.

There are two types of payments a beneficiary can receive from an RDSP:

- **Disability Assistance Payments (DAPs).** These are lump-sum or unscheduled payments that can be requested at any time by the holder. The beneficiary may also request such payments if they have reached age 27 but not age 59 in the previous year, as long as private contributions are less than the amount of grants and bonds in the RDSP. Receiving a DAP before age 59 will trigger the repayment of part or all of the assistance holdback amount (AHA) as described below. The RDSP provider may or may not allow DAPs. It is important that you check with the provider before opening the RDSP.
- **Lifetime Disability Assistance Payments (LDAPs).** These are regularly scheduled periodic payments that can start at any time. Once started, they continue for life, according to a defined payment schedule. They must start by the end of the year the beneficiary turns age 60. Receiving an LDAP before age 59 may trigger the repayment of part or all of the AHA as described below.

Taking money out of your RDSP through either a DAP or LDAP may trigger the repayment of AHA under the proportional repayment rule. The AHA is the 10-year total of all grants and bonds received in the last 10 years, less any amount that has been repaid. RDSP issuers need to set aside the AHA (it cannot be paid to the beneficiary). The amount that will need to be repaid to the government is calculated as the lessor of:

1. Three times the amount withdrawn
2. The AHA.

Payments made after age 60 will not trigger any repayments as grant and bond stop being paid into the plan by the end of the calendar year in which the beneficiary turns age 49. Money received from the RDSP can be used for any purpose.

Repayments of grants and bonds without a DAP or LDAP

Government grants and bonds paid into the plan during the preceding 10 years prior to the following situations must be repaid (these situations differ from the proportional repayment rules that exist for DAPs and LDAPs. Repayments are required where:

- The RDSP is closed;
- The plan is no longer an RDSP;
- The beneficiary is no longer eligible for the DTC and an election to extend the period for which an RDSP may remain open is not done;
- An election to keep an RDSP open is no longer valid; or
- The beneficiary passes away.

Withdrawal limits

Withdrawal limits (i.e. DAP or LDAP limits) are calculated depending on the proportion of private versus government contributions (grant and bond) held in the RDSP. When an RDSP contains more Government of Canada assistance than private contributions, it is considered a PGAP. When the amount of private contributions is greater than the amount of Government of Canada assistance held in the RDSP, it is considered a non-PGAP.

PGAPs are currently limited in the amount of money that can be withdrawn in a given year, while non-PGAPs have fewer limitations. The following chart outlines how the calculations are determined for the withdrawal limitations.

		PGAP (grants and bonds are greater than private contributions)		Non-PGAP (private contributions are greater than grants and bonds)	
		DAP	LDAP	DAP	LDAP
Beneficiary under age 60	Maximum Payment	Specified maximum amount^	Formula* result	No maximum	Formula* result
	Minimum Payment	No minimum	$1	No minimum	$1
Beneficiary aged 60 or over	Maximum Payment	Always combined with LDAP	Formula* result	No maximum	Formula* result
	Minimum Payment		Formula* result	Always combined with LDAP	Formula* result

^ The specified maximum amount is the greater of:

- The formula* result, and
- 10% of the FMV (excluding annuity payments) plus the total of all periodic payments paid to the RDSP from an annuity during the year, or if the RDSP disposed of the right to such annuity payments, an estimate of the payments that the RDSP would have paid in the year.

* The formula is $A \div (B + 3 - C) + D$, where:

A = Plan value less any annuity contracts in the plan

B = The greater of age 80 or the beneficiary's age at the beginning of the year

C = The beneficiary's age at the beginning of the year

D = The total of all periodic payments paid to the RDSP from an annuity during the year, or if the trust disposed of the right to such annuity payments, an estimate of the payments that the RDSP would have paid in the year.

Shortened life expectancy

Where a beneficiary has a shortened life expectancy, a holder may make an election to designate the plan as a Specified Disability Savings Plan (SDSP). An SDSP withdrawal does not result in the repayment of grants and bonds received in the previous 10 years. This gives beneficiaries greater flexibility in accessing their SDSP. To be able to access the funds in this manner, the holder must make an election by:

- Completing a mandatory form electing to change the status of the RDSP to an SDSP; and
- Providing a letter from a medical doctor certifying that the beneficiary is not likely to survive more than five years. Should the beneficiary live longer than five years, the plan designation as an SDSP is not changed until the plan is no longer designated an SDSP (i.e. in the event the beneficiary's health improves).

Once an RDSP is changed to an SDSP:

- Contributions are not permitted, including education rollovers;
- Rolling over proceeds from a Registered retirement fund RRSP, RPP, SPP, PRPP or a RRIF is allowed;
- No further government grants or bonds will be paid into the plan. Carrying forward grant and bond entitlements is not permitted (except in the year of the election);
- An LDAP must begin the following year; and
- Generally, the taxable portion of a withdrawal cannot exceed $10,000;

In the event that the beneficiary's health improves, an SDSP holder may choose to reverse the SDSP status by providing written notice.

Taxation of RDSPs

RDSPs benefit from preferential tax treatment similar to that of the benefits enjoyed by Registered Education Savings Plans (RESPs). The table below highlights the components of an RDSP and their tax treatment.

RDSP Component	Treatment on contribution to RDSP	Treatment while in the RDSP	Treatment on Withdrawal
Contributions up to the $200,000 limit	Contribution is not tax deductible to contributor	Contributions benefit from tax sheltered growth while inside RDSP	Initial contribution is not taxable on withdrawal
Registered plan rollovers (from RESP, RRSP, etc.)	Tax-free rollover	Rollover amount benefits from tax deferred growth while in the plan	Taxable to the beneficiary in the year of withdrawal
Payments from provincial programs	Not taxable on contribution into the plan	Amount benefits from tax deferred growth while in the plan	Taxable to the beneficiary in the year of withdrawal
Government grants and bonds (CDSG, CDSB)	Not taxable on contribution into the plan	Amount benefits from tax deferred growth while in the plan	Taxable to the beneficiary in the year of withdrawal Amounts repaid to the government are not taxable
Investment income	N/A	Amount benefits from tax deferred growth while in the plan	Taxable to the beneficiary in the year of withdrawal

For every withdrawal, income tax should be withheld on the taxable portion of the RDSP payments if the amount of the taxable portion of the withdrawal exceeds the sum of the beneficiary's basic personal amount (this is a tax credit) and the DTC amount. The credit amounts are indexed annually.

RDSP and income tested benefits

Payments from an RDSP do not affect eligibility for federal government benefits such as OAS, the GST credit and the CCB. However, the receipt of RDSP payments may affect eligibility for provincial disability support payments or other disability pensions that are means-tested. That being said, RDSPs generally don't impact most provincial disability benefits. Please consult the provincial benefit provider for further information before creating an RDSP.

Replacing a holder

Each RDSP must have a holder at all times. If the current holder ceases to be an eligible holder, they must be replaced by someone who is eligible. Examples of when the holder can cease to be an eligible holder are be in the case of death or loss of mental capacity. If the beneficiary does not have mental capacity to become the holder, then the person or organization appointed as the beneficiary's legal guardian will need to step in as the holder of the RDSP. Where there is a new holder and they need to request a grant or bond be paid, a new grant/bond application form will need to be completed.

When thinking about estate planning for incapacitated and minor beneficiaries, it is important to understand who will become the new holder of the RDSP in the event the current holder passes away or is unable to continue to be the holder.

Closing an RDSP

The RDSP must be closed in the following situations.

Closure on death

The RDSP must be closed by December 31st of the year following the year of death of the beneficiary. When an RDSP is closed, any grants or bonds that were received in the plan in the last 10 years are repaid. Contributions, income earned and remaining grants or bonds are paid to the deceased beneficiary's estate and taxed as discussed in the withdrawal section. The assets in the RDSP belong to the beneficiary and may be subject to probate taxes.

Closure due to non-residency

An RDSP may have to be terminated if the beneficiary becomes a non-resident and contributions to the plan are made. If a contribution is made to an RDSP for a non-resident beneficiary, the plan is non-compliant and will cease to be an RDSP. In this case, a DAP is deemed to have been paid to the beneficiary (equal to the amount in the RDSP less any AHA). As such, it's important that no contributions are made to the plan while a beneficiary is a non-resident of Canada.

Closure as a result of loss of DTC eligibility

Beginning on January 1, 2014, if the RDSP beneficiary loses their eligibility for the DTC, the holder can elect to keep the RDSP open for up to five years provided that the holder provides a written election and a medical certificate from a physician to the plan issuer. The election can only be made in cases where a medical practitioner certifies that the disability is likely to recur.

Where an election is made, the following apply starting in the first year for which the beneficiary is DTC-ineligible:

- No further contributions to the RDSP are permitted, including the rollover of RESPs;
- Rollovers from a deceased individual's RRSP, RRIF, SPP or RPP to the RDSP will be permitted if certain criteria are met;
- No new CDSGs or CDSBs will be paid and no new carry forward entitlement for CDSGs and CDSBs will be accrued;
- Any withdrawals from the RDSP are subject to the proportional repayment rule and maximum and minimum withdrawal rules;
- If a beneficiary dies after an election has been made, the plan is subject to the AHA rules; or
- The AHA will be equal to the AHA prior to the beneficiary becoming DTC-ineligible less any subsequent repayments.

Otherwise, the RDSP must be closed and all amounts paid out of the plan by December 31 of the year following the first full calendar year in which the beneficiary is no longer eligible for the DTC.

Transferring between institutions

A beneficiary can transfer their RDSP from one institution to another, but it needs to be done as a direct transfer for the full amount of funds in the plan. Financial institutions that offer RDSPs will provide the proper forms to transfer the plan. The new plan must have the same beneficiary, and all holders must agree to the transfer.

Rollover of retirement plans to an RDSP

Upon their death, a parent or grandparent can transfer up to $200,000 of certain retirement savings to the RDSP of a financially dependent child or grandchild. The RDSP beneficiary must be alive at the time of the transfer, a resident of Canada and 59 years of age or younger at the end of the calendar year in which the transfer takes place.

To be eligible for this measure, their retirement savings must be in one of the following:

- Registered Retirement Savings Plan (RRSP)
- Registered Retirement Income Fund (RRIF)
- Registered Pension Plan (RPP)
- Pooled Retirement Pension Plan (PRPP)
- Specified Pension Plan (SPP)

The maximum transfer amount is the $200,000 RDSP contribution limit less any contributions and rollovers previously made. The government will not pay matching grants on the money transferred. Eventually, when the funds are withdrawn, the amount withdrawn will be fully taxable to the beneficiary.

Rollover of an RESP to an RDSP

If the beneficiary of an RDSP is also the beneficiary of an RESP, they may be able to roll the accumulated income payment (AIP) from their RESP into their RDSP. The AIP represents the income earned in an RESP and excludes government assistance such as the Canada Education Savings Grant. In order to qualify for the rollover, one of the following conditions must be met:

- The beneficiary is, or will be, incapable of pursuing post-secondary education because of a severe and prolonged mental impairment;
- The RESP has existed for more than 35 years; or

- The RESP has existed for at least 10 years and the beneficiary(s) of the plan has attained 21 years of age and is not eligible to receive EAPs.

The RDSP holder must agree to the rollover in writing and the beneficiary must be:

- Eligible for the DTC;
- Age 59 or younger at the end of the calendar year in which the rollover is made;
- Alive at the time of the rollover; and
- A resident of Canada at the time of the rollover.

Any AIP rolled over from an RESP to an RDSP counts as a contribution toward the $200,000 lifetime limit but is not eligible for matching grants. When the funds are eventually paid out from the RDSP, the amount withdrawn will be fully taxable to the beneficiary.

RDSPs and Creditor Protection

RDSPs do not benefit from creditor protection unlike RRSPs and RRIFs, which have some creditor protection in the event of bankruptcy under the Bankruptcy and Insolvency Act. As such, it may be possible for the creditors of the beneficiary to seize RDSP assets. It is important to keep this in mind when setting up an RDSP for a beneficiary.

Conclusion

The RDSP is designed to assist persons with disabilities in saving for their long-term financial needs. It is a complex savings vehicle and there are many considerations that should be taken into account when opening up an RDSP. If you qualify for the disability tax credit or you are supporting a family member that qualifies, speak with a qualified tax advisor to determine if setting up an RDSP is right for you.

This article may contain several strategies, not all of which will apply to your particular financial circumstances. The information in this article is not intended to provide legal, tax, or insurance advice. To ensure that your own circumstances have been properly considered and that action is taken based on the latest information available, you should obtain professional advice from a qualified tax, legal, and/or insurance advisor before acting on any of the information in this article.

If you have questions on any of the issues in this article, please speak with your advisor.

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