# REGISTERED DISABILITY SAVINGS PLAN (RDSP)

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# Federal Budget RDSP Changes

- 2012 Federal Budget – announced changes to simplify the process of opening RDSPs for adult beneficiaries who lacked contractual capacity.

- Federal & Provincial Governments are working to develop rules to allow adult beneficiaries who lack contractual capacity to open an RDSP.

  Government of Canada has temporarily expanded the definition of who may be a plan-holder of an RDSP.

  ***Until the end of 2016, a beneficiary's spouse, common-law partner or parent may become the plan-holder and open an RDSP on behalf of an adult beneficiary who may lack contractual capacity.***

- These temporary rules are to allow the provinces and territories time to develop long-term solutions to address RDSP legal capacity issues.

# Beneficiary Eligibility

- Must be a Canadian resident
- Have a Social Insurance Number
- Under age 60
- Disability Tax Credit (DTC) eligible
  - An individual may apply for the DTC by completing Form T2201, *http://www.cra-arc.gc.ca/E/pbg/tf/t2201/*
- Only one beneficiary can be named to an RDSP
- A beneficiary can only have one RDSP

# Account Holder Eligibility

## If the Beneficiary is an Adult

- A '**qualifying family member**', defined as a **parent, spouse or common-law partner of the beneficiary**, may open an RDSP on behalf of the beneficiary.

  *This is a temporary rule that will be updated by the end of 2016. The rule allows all Provincial/Territorial governments time to streamline RDSP rules.*

***These rules will not apply to RDSPs already established for an individual, or where an individual has a legal representative.*

## If the Beneficiary is a Minor

- Legal parent(s) of the beneficiary.
- A guardian or public department/agency who is legally authorized to act on behalf of the beneficiary.

# Contributions

- Anyone may contribute to the plan
- Contributions are not tax deductible
- Money grows on a tax-deferred basis
- The lifetime limit is $200,000 per beneficiary
- There is no annual limit
- Are permitted until December 31st of the year in which the beneficiary of the plan turns 59
- Unused government grants and bonds may be carried forward from 2008
- Proceeds from a deceased individual's RSP, RIF or registered pension plan can be rolled into a RDSP of a financially dependent child or grandchild with a disability without triggering taxes or probate fees
- RESP income earned, where the RDSP & RESP have the same beneficiary (more on this later)

# Impact on other Government Programs

RDSP will not impact the following government income plans**:**

- Old Age Security **(OAS)**
- Guaranteed Income Supplement **(GIS)**
- Canada Pension Plan **(CPP)**
- Goods and Services Tax Benefit **(GST Benefit)**
- Ontario Disability Support Payment **(ODSP)**

# Taxation

- The RDSP payments are made up of the following:
  - Contributions
  - Grants and Bonds
  - Growth
- Contributions are NOT taxable.
- Growth, Grants and Bonds are **taxable** in the hands of the beneficiary.

# Canada Disability Savings Grant (CDSG)

- **Maximum** annual CDSG – **$3,500**, if family net income is **less than $87,123***.
- **Maximum** annual CDSG – **$1,000**, if family net income is **greater than $87,123** *.
- **Lifetime CDSG available per beneficiary is $70,000.**

**<u>Family Net Income is Based on:</u>**

- If the **beneficiary** is a **minor**, it is based on the **family's net income.**
- If the **beneficiary** is an **adult**, it is based on the **beneficiary's net income.** (and spouse, if applicable)

**<u>CDSG Eligible Until:</u>**

- December 31st of the year the beneficiary turns **age 49.**

# Canada Disability Savings Grant (CDSG)

| Family Net Income: | CDSG Matching: | Annual Maximum CDSG: |
|---|---|---|
| **Below $87,123** | On the **first $500** of annual contributions<br>**($3 for every $1 contributed)** | **$1,500** |
| | On the **next $1,000** of annual contributions<br>**($2 for every $1 contributed)** | **$2,000** |
| | ***$1,500 contributed to an RDSP receives $3,500 grants = $5,000***<br>***A 233% return on investment.*** | |
| **Above $87,123,** or<br>**No Family Income information at CRA** | On the **first $1,000** in annual contributions<br>**($1 for every $1 contributed)** | **$1,000** |

**Remember, when the beneficiary turns 18 years of age, CDSG payments are based on their net annual income (and spouse, if applicable)**

*** Income thresholds are for 2013. These income thresholds are indexed annually by CRA.**

# Canada Disability Savings Bond (CDSB)

**CDSB is available to a beneficiary who has a net family income below $43,561.**

<u>**Canada Disability Savings Bond (CDSB)**</u>

- **Maximum annual CDSB – $1,000** (family net income below **$25,356** *)
  (Smaller amounts of CDSB with net incomes between **$25,356 * - $43,561***)
- **The lifetime CDSB available is $20,000.**

<u>**Family Net Income is Based on:**</u>

•If the **beneficiary** is a **minor**, it is based on the **family's net income.**

•If the **beneficiary** is an **adult**, it is based on the **beneficiary's net income.** (and spouse, if applicable)

<u>**CDSB Eligible Until:**</u>

•December 31st of the year the beneficiary turns **age 49**.

# Canada Disability Savings Bond

RDSP contributions are not required to get the CDSB

| Family Net Income | CDSB |
|---|---|
| $25,356 * or less | $1,000 |
| Between $25,356 * and $43,561* | Prorated amount of $1,000 |
| More than $43,561* | None |

# *NEW* “PROPORTIONAL REPAYMENT RULE”

Prior to RDSP changes in the last 2012 Budget, grants and bonds received in the prior 10 years had to be repaid to the Government if :

1.Any amount was withdrawn from the RDSP;

2.The RDSP was terminated or de-registered; or

3.The RDSP beneficiary lost DTC eligibility

4.The RDSP beneficiary passes away

This is known as the **“10 Year Repayment Rule”.**

The **“Proportional Repayment Rule”** was introduced in 2012, and took affect **January 1, 2014**.

It will provide greater access to RDSP savings for ***one time withdrawals only.***

The **“10 Year Repayment Rule”** still applies to RDSP withdrawals due to plan termination or de-registration, or the beneficiary loses DTC eligibility or passes away (2, 3 and 4 above).

# "PROPORTIONAL REPAYMENT RULE"

**How it Works:**

For every $1 withdrawn from an RDSP, $3 of CDSGs or CDSBs paid into the plan in the preceding 10 years must be repaid up to the **'Assistance Holdback Amount' (AHA).** All sponsors must keep a 'tally' of CDSGs & CDSBs paid into an RDSP over the past 10 years, less any amounts repaid during the same time period.

***Example:***

Rick opens an RDSP in 2009 and contributes $1,500 to his plan annually, attracting the maximum amount of CDSGs ($3,500) each year. In 2014, the **AHA** for his plan equals $21,000.

In 2014, Rick withdraws $600 from his RDSP.

Under the **10-year Repayment Rule**, the entire assistance holdback amount ($21,000) would have to be repaid.

Under the **Proportional Repayment Rule**, $1,800 of the assistance holdback amount will be repaid. The $1,800 repayment will come from CDSGs paid into Jeff's RDSP in 2009 and the plan's assistance holdback amount will be reduced to $19,200.

# Payments from an RDSP

**There are 2 Types of Payments that may be made from an RDSP**

1. **Lifetime Disability Assistance Payments – (LDAP)** - ongoing payments.
2. **Discretionary Disability Assistance Payment – (DAP)** - one-time payment.

The *Income Tax Act* specifies how much can be withdrawn from a plan during a calendar year.

An RDSP may hold more Government assistance than private contributions, and if so it's called a ***Primarily Government Assisted Plan*** or ***PGAP***.

When the amount of private contributions is greater than the amount of grant and bond held in the RDSP, it is considered a ***non-PGAP***.

# Payments from an RDSP

Withdrawal limits (i.e. DAPs or LDAPs) are calculated depending upon the proportion of **private versus government** contributions held in the RDSP.

**PGAPs are currently limited** in the amount of money that can be withdrawn in a given year, while **non-PGAPs have no limitations** whatsoever.

Budget 2012 announced measures to provide greater flexibility to make withdrawals from PGAPs by increasing the annual maximum withdrawal limit that applies to these plans, and ensuring that RDSP assets are used to support a beneficiary during their lifetime—by requiring a minimum amount to be withdrawn from all RDSPs beginning the year a beneficiary attains 60 years of age.

- Made up of a portion of contributions, Income, Grants and Bonds
- Can be used for disability or non-disability related expenses
- Only the beneficiary can receive payments from the RDSP

| | Disability Assistance Payment (DAP) (annual totals of all DAPs) | | Lifetime Disability Assistance Payment (LDAP) (annual totals including all annual DAP and LDAP payments) | |
|---|---|---|---|---|
| | **Old Rules** | **New Rules** | **Old Rules** | **New Rules** |
| **Primarily Government Assisted Plan (PGAP)** | Less than or equal to: the amount as determined by the formula in ITA 146.4(4)(l)* | **Less than or equal to the greater of: the amount as determined by the formula in ITA 146.4(4)(l)*; or 10% of total assets** | Equal to: the amount as determined by the formula in ITA 146.4(4)(l)* | **Equal to: the amount as determined by the formula in ITA 146.4(4)(l)*** |
| **Private contributions are greater than government monies (non-PGAP)** | Any amount | **Any amount** | Any amount | **If the beneficiary has reached the age of 60: greater than or equal to: the amount as determined by the formula in ITA 146.4(4)(l)*<br><br>If the beneficiary is under the age of 60, there is no minimum withdrawal amount** |

# Lifetime Disability Assistance Payment (LDAP)

**LDAP is a re-occurring annual payment that, once started, continue until the death of the beneficiary.**

**LDAP may begin at any age but must commence by the end of the year in which the beneficiary turns age 60.**

$$\text{Maximum LDAP} = \frac{\textbf{Value of plan}}{3 + (80 - \text{Current Age})}$$

**Maximum LDAP example: $150,000 RDSP, beneficiary, age 60**

$$\frac{\$150{,}000}{3 + (80 - 60)} = \mathbf{\$6{,}522}$$

LDAP may be subject to the Assistance Holdback Amount rule

# Discretionary Disability Assistance Payment (DAP)

**'Discretionary DAP'** is a one-time payment from a RDSP to the Beneficiary or to the Beneficiary's Estate.

$$\text{Maximum Discretionary DAP} = \frac{\text{Value of plan}}{3 + (80 - \text{Current age})}$$

**Maximum DAP example:** **$65,000 RDSP, beneficiary LE 80, age 37**

$$\frac{\$65{,}000}{3 + (80 - 37)} = \$1{,}413$$

**Discretionary Disability Assistance Payment may be subject to the Assistance Holdback Amount (AHA) rule.**

# NEW - Rollover of RESP Investment Income to a RDSP

- To provide greater flexibility for parents who save in a Registered Education Savings Plan (RESP) for a child with a severe disability, investment income earned in an RESP can be transferred on a tax-free basis to an RDSP if the plans share a common beneficiary.

- To qualify, the beneficiary must meet the existing age and residency requirements in relation to RDSP contributions. As well, **one** of the following conditions must be met:
  - the beneficiary has a severe and prolonged mental impairment that can reasonably be expected to prevent the beneficiary from pursuing post-secondary education;
  - the RESP has been in existence for at least 10 years and each beneficiary is at least 21 years of age and is not pursuing post-secondary education; or
  - the RESP has been in existence for more than 35 years.

- These are the existing conditions for receiving an '***accumulated income payment'*** (**AIP**) from an RESP.

# cont'd Rollover of RESP Investment Income

- RESP investment income is rolled over to an RDSP, and contributions in the RESP will be returned to the RESP subscriber on a tax-free basis. The subscriber can contribute these amounts to the RDSP (immediately or over time) and receive CDSGs. In addition, Canada Education Savings Grants and Canada Learning Bonds in the RESP will be required to be repaid to the Government and the RESP terminated by the end of February of the year after the year during which the rollover is made.

- The amount of RESP investment income rolled over to an RDSP may not exceed, and will reduce, the beneficiary's available RDSP contribution room. The rollover amount will be considered a private contribution for the purpose of determining whether the RDSP is a PGAP, but will not attract CDSGs. The rollover amount will be included in the taxable portion of RDSP withdrawals.

- This measure will apply to rollovers of RESP investment income made **after 2013**.

# Loss of Disability Tax Credit

- The RDSP must be collapsed.
- Grants and Bonds received in the 10 years preceding the beneficiary's loss of the Disability Tax Credit must be returned to the government.
- The remaining holdings of the plan – Grants and Bonds older than 10 years, income growth and contributions – become property of the beneficiary.
- Proceeds to beneficiary are taxable in the hands of the beneficiary (after contributions have been deducted).

# Loss of Disability Tax Credit

An RDSP may be allowed to remain open, but "dormant" for a period of up to five (5) years when a beneficiary ceases to be Disability Tax Credit (DTC) eligible, **<u>if</u>** there is a likelihood that the beneficiary will again qualify for the DTC.

If this is the case, the holder must make an "election" whereby a medical practitioner must certify in writing that the nature of the beneficiary's condition will make the beneficiary eligible for the DTC in the foreseeable future.

If so, the plan can remain open, however no additional contributions can be made to the plan during this period, no grant or bond will be paid to the plan, and no grant or bond entitlements will be accumulated.

The Assistance Holdback Amount (AHA) will remain the amount as at cessation of DTC eligibility, and the new proportional repayment rule will also apply. This new measure will take effect **after 2013.**

# Death of a Beneficiary

Upon the death of a Beneficiary:

- Grants and Bonds received in the 10 years preceding the beneficiary's death must be returned to the government.
- The remaining holdings of the plan – Grants and Bonds older than 10 years, income growth and contributions – will pass to the beneficiary's estate.
- The plan's proceeds will be distributed according to the individual's will.
- If the individual dies without a will, the funds will be distributed according to provincial estate laws.

Thank-you.