

REGISTERED DISABILITY SAVINGS PLAN

- **Only one RDSP per beneficiary**
- **Eligibility-** Beneficiary must have Disability Tax Credit certification, reside in Canada when plan is established and have a social insurance number
- **Who Can Set Up Plan?**
 - Beneficiary (if age of majority and ‘contractually competent’)
 - If beneficiary not yet age of majority (18 years old)
 1. Parent
 2. Individual legally authorized to act on behalf of beneficiary, or
 3. Or public department, agency or institution that is legally authorized to act on behalf of the beneficiary
 - If beneficiary has attained age of majority but is not ‘contractually competent’, only those in 2 or 3 above
- **Contributions to the Plan**
 - **Who Can Make Them** – Can only be made by the “Holder” or any person with the consent of the Holder. The Holder is defined to include the parties who set up the plan (see above) or the parties who have rights as a successor or assignee of those parties, the beneficiary if not included in prior definition but generally has rights under the plan to make decisions either alone or together with the other Holders.
 - Limit on Contributions- Lifetime limit of \$200,000 with no annual limit (can be one lump sum) but no contributions to be made after the calendar year in which the beneficiary turns 59 years of age.
 - No deduction from income for contributions
 - Contributions are non-refundable and must be used for the beneficiary
- **Savings Grants/Bonds Paid into RDSP**
 - **Family Income** – Income for purposes of determining amount of bond/grant based on family income
 - If beneficiary is over 18 years of age, income is that of the beneficiary and his/her spouse

- If beneficiary not yet 18 years of age, generally income is that of the parent on whom the beneficiary is dependent and his/her spouse
- **Canada Disability Savings Grants (CDSGs)** available for beneficiaries with a family income of less than \$74,357 and match contributions
 - \$3 for every \$1 contributed on the first \$500
 - \$2 for every next \$1000
 - Maximum annual grant is \$3500 per year
 - Maximum lifetime limit of \$70,000 grant per beneficiary
 - No grants paid after year in which beneficiary is 49 years of age
- **Canada Disability Savings Bonds (CDSBs)** available for beneficiaries with family income of less than \$37,178
 - \$1000 per year if income is less than \$20,883
 - Amount of bond phases out gradually for incomes between \$20,833 and \$37,178
 - Maximum lifetime limit of \$20,000
 - No grants paid after year in which beneficiary is 49 years of age
- **Repayment of Grants/Bonds**
 - Grants and loans paid within 10 years from the date of a withdrawal from RDSP must be repaid together with their associated earnings and
 - All grants and loans together with their associated earnings must be repaid if beneficiary loses status to receive the Disability Tax Credit Certificate
- **Withdrawals from RDSP**
 - Can only be for the beneficiary
 - Will not be included in come for purposes of Canada Child Tax Benefit, GST Credit, EI benefits, OAS
 - Will trigger repayment of CDSGs and CDSBs paid into the plan within the past 10 years and their associated earnings
 - Prohibited if after making withdrawal the FMV of property held in RDSP is less than the holdback required for possible repayment of CDSGs and CDSBs and their associated earnings

- Lifetime payments can commence at any time if plan assets exceed holdback amount for CDSGs and CDSBs and their associated earnings
- Lifetime payments must commence no later than the year the beneficiary turns 60 and once commenced must continue at least annually
- Maximum amount of lifetime payment in a calendar year determined by formula:
 - $A/(B + 3 - C) + D$
 - A is value of all assets in the plan (less qualifying locked-in annuity held within the plan)
 - B is the greater of 80 and age of beneficiary at beginning of the year [*previous commentary anticipated B would be life expectancy of beneficiary (statistically determined or based on medical evidence), however the legislation fixes B as set out above*]
 - C is age of beneficiary in whole years at the beginning of the year
 - D is the total amount of periodic payments paid into the plan from qualifying annuities during the year
- Restricted if private contributions to the RDSP are less than the amounts paid into the plan from CDSGs and CDSBs
- Allows withdrawals other than lifetime payments if permitted under the plan as established
 - Will trigger repayment of CSDGs and CDSBs and associated earnings of the past 10 years; and
 - Restrictions on withdrawals for following year if total of CSDGs and CDSBs exceed private contributions at end of year
- **RDSP and ODSP:**
 - RDSP contributions do not affect eligibility for ODSP
 - Withdrawals from an RDSP will not affect ODSP payments
 - Query whether withdrawals from an RDSP that accumulate to over \$5000 in assets will affect ODSP (I expect that the answer is that we cannot accumulate these payments to an amount that exceeds total 'liquid assets' of over \$5000)

- **Other Issues:**
 - Payments must be made to the beneficiary, unlike a trust such as a Henson trust which names trustees to make payments to or on behalf of a beneficiary.
 - Any monies left in the RDSP on the beneficiary's death will be paid into the beneficiaries estate
 - Unlike a trust, the contributors have no control over the distribution and may not like the manner in which these monies will be distributed, either under the beneficiary's Will or under intestacy laws.
 - If beneficiary has no Will, could be issues re: no ability to provide for trusts for underage beneficiaries, extend distribution date to age later than age of majority, no choice of beneficiaries or trustee, etc.
 - If beneficiary loses status to receive the Disability Tax Credit Certificate, plan terminates and is paid out to the beneficiary (subject to holdback of CDSGs and CDSBs and their associated income)
 - If the beneficiary's condition has improved to the extent that they no longer qualify for the DTC, the beneficiary will gain full access to the RDSP savings which may be contrary to the wishes of the parent
 - Beneficiary may lose DTC certification but still be entitled to receive ODSP, as the eligibility criteria are considerably broader under ODSP than for DTC certification. At present it is uncertain whether or not the RDSP in such a case could affect ODSP benefits.