Personal Tax Planning

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PLANNING WITH REGISTERED DISABILITY SAVINGS PLANS

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The introduction of the registered disability savings plan (RDSP) represents a significant development in facilitating the financial security of persons with disabilities. Commencing in 2008, Canadians with severe and prolonged disabilities who are eligible for the disability tax credit, or those who support them, can contribute up to $200,000 to an RDSP. Tax on the accumulated income and gains is deferred as long as the funds are held in the plan, and contributions can be supplemented through potentially generous government assistance, in the form of the new Canada disability savings grants and Canada disability savings bonds. Withdrawals are partially taxable in the hands of the beneficiary and, in most cases, should not affect eligibility for provincial disability benefits (depending on the province or territory of residence). RDSPs will play an important role, in conjunction with standard disability trust planning, in securing the financial future of disabled individuals in Canada.

KEYWORDS: DISABLED ■ TAX PLANNING ■ SAVINGS PLANS ■ GRANTS ■ REGISTERED DISABILITY SAVINGS PLAN ■ RDSP

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INTRODUCTION

Registered disability savings plans (RDSPs) were introduced by the federal government in the 2007 federal budget. The purpose of the RDSP is "to help parents and others save for the long-term financial security of a child with a severe disability."[1] In addition, disabled persons may set up plans for themselves, if they have the capacity to do so.

The plan structure is modelled on the registered education savings plan (RESP), as recommended by the Expert Panel on Financial Security for Children with Severe Disabilities.[2] Generally, a person who establishes an RDSP (the plan holder) can make contributions to the plan, up to a specified lifetime limit, for the benefit of the person named as the beneficiary of the plan. Subject to certain restrictions, income and gains accumulated in the RDSP are non-taxable while held in the plan. A significant feature of the RDSP is the availability of government funds deposited directly into the plan in the form of matching Canada disability savings grants (CDSGs) and Canada disability savings bonds (CDSBs).

The first RDSPs became available in December 2008. Given the late commencement date, the government announced that the 2008 deadline for opening an RDSP,

1 Canada, Department of Finance, 2007 Budget, Budget Plan, March 19, 2007, annex 5, at 379.

2 Canada, Department of Finance, *A New Beginning*, The Report of the Minister of Finance's Expert Panel on Financial Security for Children with Severe Disabilities (Ottawa: Department of Finance, December 2006). The panel's report had its genesis in two academic papers published in October 2005 by the Planned Lifetime Advocacy Network (a Vancouver-based non-profit organization): Richard Shillington, *Disability Savings Plan: Policy Milieu and Model Development* (Vancouver: PLAN, 2005); and Keith Horner, *Disability Savings Plan: Contribution Estimates and Policy Issues* (Vancouver: PLAN, 2005).

making contributions to the plan, and applying for the related government assistance would be extended to March 2, 2009. The 2009 RDSP contribution year would then begin on March 3, 2009.[3]

WHAT IS AN RDSP?

An RDSP is an arrangement between the issuer (a trust company) and one or more individuals or entities (the holder or holders), which permits contributions and government grants and bonds to be invested and ultimately used by the issuer to make payments to a qualifying disabled person (the beneficiary). The plan must be registered with the Canada Revenue Agency (CRA) pursuant to the Income Tax Act.[4]

To qualify as a beneficiary of an RDSP, an individual must have a "severe and prolonged physical or mental impairment," such that the individual is entitled to claim the disability tax credit (DTC).[5] The DTC is a non-refundable tax credit that reduces the amount of tax that the disabled individual (or in some cases, a supporting relative) would otherwise have to pay in respect of the taxation year. To apply for the DTC, the claimant must obtain a certificate (form T2201, "Disability Tax Credit Certificate") from a qualified practitioner—generally, a medical doctor or other medical specialist—stating that the disabled person meets the requisite criteria set out in the Income Tax Act.[6] The claim for the credit is subject to final approval by the CRA.

Beneficiary

The beneficiary (or "DTC-eligible individual") is the person who will ultimately benefit from RDSP asset accumulation, government grants and bonds, and ultimate plan withdrawals. An RDSP arrangement must be between the issuer and either

- the beneficiary; or
- a "qualifying person" in relation to the beneficiary (discussed below); or
- a legal parent who is not, at the time the arrangement is entered into, a qualifying person in relation to the beneficiary, but who is, at that time, a holder of another RDSP of the beneficiary.[7]

If the RDSP is the first plan established for the beneficiary, practically speaking, the beneficiary must be a Canadian resident; however, a plan may be opened for a

3 Section 81 of the Budget Implementation Act, 2009, SC 2009, c. 2.

4 Subsection 146.4(1), the definition of "disability savings plan," and subsection 146.4(2) of the Income Tax Act, RSC 1985, c. 1 (5th Supp.), as amended. Unless otherwise stated, statutory references in this article are to the Income Tax Act.

5 Subsection 146.4(1), the definition of "DTC-eligible individual."

6 Subsection 118.3(1).

7 Subsection 146.4(1), the definition of "disability savings plan."

beneficiary who has become a non-resident if he or she is the beneficiary of an existing plan that is being transferred to the new plan.[8] (Except for the brief overlap that may occur in the course of a transfer, only one RDSP can exist for a particular beneficiary at any time.)

An RDSP must specify that it is to be "operated exclusively for the benefit of the beneficiary."[9] Since this is difficult to determine objectively, non-compliance will not lead to the immediate deregistration of the plan (see the discussion under "Non-Compliant RDSPs" below). However, this provision could help a disgruntled beneficiary, or the beneficiary's legal representative, in seeking to take over the plan from the current holder.

The designation of a beneficiary of an RDSP is irrevocable, and the beneficiary can neither surrender nor assign his or her rights to receive payments from the plan.[10]

Issuer

An RDSP issuer must be licensed or authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee. In addition, at the time the arrangement is entered into, there must be an agreement, for the exchange of information and the payment of the grants and bonds between the issuer and the minister of human resources and skills development, that applies to the arrangement for the purposes of the Canada Disability Savings Act.[11]

In order to establish an RDSP trust, the issuer must be provided with social insurance numbers for both the beneficiary and the holder.[12]

Holder

The holder of an RDSP is the person (or persons, or entity) who establishes the plan on behalf of the beneficiary and is the principal decision maker regarding the choice of investments in the RDSP. In addition, if the plan permits, the holder can determine the amount and/or the timing of payments from the plan.

The holder can be the disabled individual (the beneficiary) or an entity that is a "qualifying person" in relation to the beneficiary,[13] defined as

8 Paragraph 146.4(2)(c).

9 Paragraph 146.4(4)(a).

10 Ibid.

11 SC 2007, c. 35, section 136; and Income Tax Act, paragraph (a) of the definition of "disability savings plan" in subsection 146.4(1) and paragraph 146.4(2)(a). Detailed information on the RDSP issuer enrolment process is available online from Human Resources and Skills Development Canada, at http://www.hrsdc.gc.ca/eng/learning/education_savings/publications_resources/enrolment_process/iep.shtml. The department's Web site also maintains a list of RDSP issuers: see http://www.hrsdc.gc.ca/eng/disability_issues/disability_savings/update_financial.shtml.

12 Paragraph 146.4(2)(b).

13 Subsection 146.4(1), the definitions of "disability savings plan," "holder," and "qualifying person."

- the beneficiary's legal parent, guardian, tutor, curator, or another individual who is legally authorized to act on behalf of the beneficiary; or
- a public department, agency, or institution with such legal authority.

A qualifying person can establish and administer an RDSP on behalf of the beneficiary only if the beneficiary lacks the legal or mental capacity to do so himself or herself. The definition provides that if the beneficiary is a minor, a qualifying person can be any of the individuals or entities identified above.[14] If the beneficiary has reached the age of majority but is not mentally capable of opening an RDSP for himself or herself, a qualifying person can be any of the listed persons *other than* the beneficiary's legal parent.[15] This exclusion of a legal parent from the definition is significant. It means that once a disabled child has reached the age of majority, a parent can set up an RDSP for the child only if the parent is legally authorized under provincial law to act on his or her behalf.

Practically speaking, since the definition of a qualifying person applies only in respect of a beneficiary who is a minor or is mentally incapable, a disabled adult with mental capacity who wishes to benefit from an RDSP must establish the plan himself or herself; no one else can set up a plan on that person's behalf. However, family members, friends, or others could contribute to a plan established by the disabled person, with his or her written permission.[16]

The holder of an RDSP may change over time, if there is a change in the beneficiary's age or mental capacity, or in the holder's status as a qualifying person. Consider, for example, a situation where the guardian (who is not the parent) of a minor child opens an RDSP for the child. When the child reaches the age of majority, the guardian can no longer be the plan holder, unless the beneficiary is not mentally capable of exercising his right to become the holder and the guardian retains the legal authority to act on behalf of the beneficiary.[17]

A legal parent is specifically exempted from this condition, so as to prevent a child from forcing a parent to give up control of the RDSP when the child reaches majority. However, upon reaching majority, the child has the right, though not the obligation, to become a holder together with the parent or parents. If the child is not mentally capable, presumably the child cannot exercise that right.

Thus, an RDSP can have successive holders over the duration of the plan, and it can have more than one holder at a given time. Suppose, for example, that the legal parents of a minor disabled child establish an RDSP for their child, with both parents as holders of the plan. The plan might provide that once the beneficiary reaches the age of majority, he or she can become a holder with the parents. However, because

14 Subsection 146.4(1), the definition of "qualifying person," paragraph (a).

15 Ibid., paragraph (b).

16 Paragraph 146.4(4)(h).

17 Paragraph 146.4(4)(c) and paragraph (b) of the definition of "qualifying person" in subsection 146.4(1).

a mentally competent child is entitled, at law, to become a holder on reaching the age of majority, such a provision is not strictly necessary. In addition, the plan could stipulate whether decisions must be made jointly or severally; however, unanimous consent of all the holders is required before the assets in the plan can be transferred to another RDSP.

Consider another example where a parent sets up an RDSP for a minor child who is mentally capable. If that parent dies, the surviving parent can become the successor holder of the RDSP, provided that the beneficiary is still under the age of majority and that the deceased parent named the surviving parent as the person entitled to become the holder. If the latter condition is met but the beneficiary has come of age, the surviving parent can take on the role of holder only if he or she is the legal guardian of property of the beneficiary.

As a final example, suppose that a widow has a young daughter who is disabled but mentally capable. The mother sets up an RDSP for her daughter but unexpectedly dies while the child is still a minor. The local children's aid society (CAS) steps in and assumes legal custody of the child, becoming the plan holder. Once the child reaches the age of majority, she must become the plan holder (assuming that she is mentally capable at that time). Thus, the plan will have had three successive holders: the mother; the CAS; and finally, the child herself.

RDSP holders may be jointly liable with the beneficiary (or the beneficiary's estate) for taxes that may arise from the deregistration of an RDSP,[18] or from non-compliant transactions in the plan, such as holding non-qualifying investments.[19] These rules are discussed in later sections of the article.

CONTRIBUTIONS TO RDSPs

There is no annual contribution limit for an RDSP, as there is for a registered retirement savings plan or a tax-free savings account. However, similar to an RESP, there is a lifetime limit to the amount that can be contributed to RDSPs for a particular beneficiary; the maximum amount is currently set at $200,000.[20] This lifetime limit specifically excludes grants and bonds paid into the plan under the Canada Disability Savings Act (discussed below).[21]

Contributions to an RDSP may be made at any time, up to the end of the year in which the beneficiary turns 59.[22] However, RDSP contributions cannot be accepted at any time that the beneficiary is not a resident of Canada;[23] no contributions may

18 Subsection 160.21(1).

19 Section 206.1. Other taxes may be applicable pursuant to part XI.

20 Subparagraph 146.4(4)(g)(iii). Note that this parallels the current RESP rules: the annual contribution limit was repealed by the 2007 budget (first bill), and the lifetime contribution limit was increased to $50,000 (subsection 204.9(1)).

21 See the definition of "contribution" in subsection 146.4(1).

22 Subparagraph 146.4(4)(g)(i).

23 Subparagraph 146.4(4)(g)(ii).

be made after the death of the beneficiary;[24] and contributions are prohibited in a year in which the beneficiary is no longer eligible for the DTC.[25] An RDSP must generally be terminated by the end of the year following the year in which the beneficiary ceases to be a DTC-eligible individual or dies.[26]

No one other than a holder of the RDSP can make a contribution to the RDSP without the written consent of the plan holder(s).[27] This restriction is important, because it permits the RDSP holder(s) to plan contributions strategically, in order to maximize matching government grants and bonds while keeping within the lifetime contribution limit.

ANNUAL GOVERNMENT ASSISTANCE

For many individuals and their families, the generous assistance available to RDSPs from the government of Canada may be the primary reason for establishing an RDSP in the first place. The assistance comes in two forms: an income-tested matching grant, known as the Canada disability savings grant; and an income-tested bond, which is independent of any contributions, known as the Canada disability savings bond.

Both CDSGs and CDSBs can be paid into an RDSP up to the end of the year in which the beneficiary turns 49.[28]

Canada Disability Savings Grant

The amount of the CDSG depends on the amount of contributions made into the plan as well as the disabled person's "family income." The definition of family income depends on the age of the disabled beneficiary and whether or not he or she is living with a parent or legal guardian.[29]

If the RDSP beneficiary has not reached the age of 18 in the prior year, the annual family income of the beneficiary's parents or legal guardian is used to determine whether the beneficiary is eligible for the bond and matching grant amounts.

If the minor child is in the care of an agency that receives an amount for the child under the Children's Special Allowances Act,[30] the determination of the beneficiary's family income is not relevant. The beneficiary is then eligible for the maximum level of grants and bonds, as discussed below.

24 Paragraph 146.4(4)(f).

25 Ibid.

26 Paragraph 146.4(4)(p). Under paragraph 146.4(12)(d), an exception to this deadline may be possible where the disabled person's DTC eligibility is in dispute.

27 Paragraph 146.4(4)(h).

28 Canada Disability Savings Regulations, PC 2008-1005, SOR/2008-186 (2008) vol. 142, no. 13 *Canada Gazette Part II* 1404-8, regulations 2(c) and 3(d).

29 Section 2(1) of the Canada Disability Savings Act defines "family income" as the income determined under the definition of "adjusted income" in section 122.6 of the Income Tax Act.

30 SC 1992, c. 48.

Beginning in the year after the beneficiary's 18th birthday, his or her own family income is used to determine the grant amount, even if he or she continues to reside with a parent or legal guardian.

The family income used to calculate eligibility for the CDSGs and CDSBs for a particular year is actually the income for the second preceding year. For example, eligibility for the 2008 CDSG and CDSB is based on the 2006 family income.

This makes it critically important to file tax returns for the previous two years. For example, to get the 2009 CDSGs (and CDSBs, discussed below), both the 2008 and 2007 tax returns must have been filed to establish an income basis. Otherwise, Human Resources and Skills Development Canada will not have the income information it requires for determining the beneficiary's eligibility for a CDSG and (possibly a CDSB). As a result, it may limit the amount of the CDSG match and preclude the CDSB altogether.

The amount of the CDSG payable annually when family income is under $75,769 (the level used for 2008 CDSGs, based on 2006 income, to be indexed annually to inflation) is

- 300 percent on the first $500 of contributions and
- 200 percent on the next $1,000 of contributions.

As an example, for a family with income of $70,000, if contributions for a year are $500, a 300 percent CDSG amounting to $1,500 will be paid into the RDSP. If $1,000 is contributed in the year, the amount of the CDSG paid into the plan will be $1,500 + $1,000 = $2,500. To maximize the available grant, an annual contribution of $1,500 will yield a CDSG of $3,500 annually, for a total of $5,000 paid into the RDSP each year.

If the family income is over $75,769 (or the indexed threshold), or if prior years' tax returns have not been filed to establish the higher level of CDSG, the CDSG is limited to 100 percent of the total contributions up to a maximum of $1,000.

The maximum amount of CDSGs payable to a beneficiary's RDSP during his or her lifetime is $70,000.

Canada Disability Savings Bond

The CDSB is equal to $1,000 in any year when family income is below $21,287 (the 2008 threshold, based on 2006 income, to be indexed annually to inflation). No contributions are required for payment of the CDSB into an RDSP. The CDSB is phased out, pro rata, for family income ranging between $21,287 and $37,885 (again, applicable in 2008 and adjusted for inflation in future years). A maximum of $20,000 of CDSBs can be paid to a beneficiary's RDSPs over the beneficiary's lifetime.

Maximizing Government Assistance Payment

By planning the timing and amount of annual contributions, a holder can maximize the benefits of the government assistance payments. The following four examples describe both the calculation and the optimization of CDSGs and CDSBs.

Example 1: CDSG/CDSB Calculation

John was born in March 2009 with a severe disability and qualifies for the DTC. His parents earn $80,000 per year. John is unlikely to earn any income during his lifetime. If his parents open an RDSP for him in 2009 and can afford to contribute $1,500 every year, assuming that the family income remains above the threshold for maximum CDSG payments, how much in CDSGs and CDSBs can they expect to accumulate?

From 2009 to 2028, when John turns 19, the CDSGs will be based on John's parents' income, which is over the $75,769 threshold. As a result, John's RDSP will get a 100 percent matching CDSG each year for 19 years, for the first $1,000 of RDSP contributions made to the plan. From age 19 onward, John's own income will be below the CDSG threshold; therefore, he will qualify for $3,500 of matching CDSGs and $1,000 of annual CDSBs until the lifetime limits—$70,000 for the CDSG and $20,000 for the CDSB—are reached, at ages 33 and 38 respectively.

Example 2: Calculation of CDSBs

Henry and June have a disabled daughter, Gayle, who is 10 years old in 2009. Their net family income is only $30,000 per year, leaving no funds available to contribute to an RDSP. Gayle's annual income is not expected to exceed $15,000 after she turns 18. Can Gayle qualify for CDSB assistance, and if so, how much might she be entitled to?

Since CDSB eligibility is based on family income and not on the amount of RDSP contributions, Gayle will be entitled to CDSB assistance, provided that Henry and June open an RDSP for her. As long as Gayle remains a minor, the level of assistance will be reduced, because the family income falls within the clawback range of $21,287 to $37,885. The annual CDSB until the year Gayle turns 19, is calculated as

$$\$1{,}000 \times \{1 - [(\$30{,}000 - 21{,}287) / (\$37{,}885 - 21{,}287)]\}$$

or $475 annually. In that year and subsequent years, as long as Gayle's annual income does not exceed the threshold for full assistance, she will be eligible for annual CDSB payments into her RDSP of $1,000, until the maximum of $20,000 is reached in the year Gayle turns 34.

Even with no contributions and a modest annual rate of return of 5 percent, simply opening an RDSP to obtain the maximum government assistance can accumulate nearly $130,000 by the time the beneficiary turns 60, based on only $20,000 of CDSBs deposited to the plan, and assuming no withdrawals before that time.

Example 3: CDSG/CDSB Calculation

David is 33 and qualifies for the DTC. His annual income is $65,000. In 2009, he opens an RDSP of which he is the beneficiary. What is the minimum amount that David should contribute annually in order to maximize CDSG and/or CDSB payments into the plan?

Since David's income is above the CDSB entitlement threshold, he will not qualify for any CDSB assistance. To maximize his CDSGs, he will have to contribute at least $1,500 to the RDSP each year from 2009 until 2025, when he turns 49. For contributions totalling $25,500 over this period, he can accumulate $3,500 of CDSGs annually for 17 years, for a total of $59,500 in CDSG deposits.

Example 4: CDSG/CDSB Maximization—Lump-Sum Funding

Dinesh and Kami have a disabled 10-year-old daughter, Anna, for whom they would like to start an RDSP. Because of her disability, Anna will never be able to earn her own annual income; however, her parents are quite well off. They have an annual family income of $400,000, and can easily afford to contribute $200,000 in one lump sum to the RDSP in 2009. Should they?

The problem with contributing the entire $200,000 in one lump sum is that Dinesh and Kami will only be able to collect one CDSG payment, for the year in which the contribution is made, and that payment will be limited to $1,000, because their family income is above the threshold for the higher rate. Instead, they should spread their contributions across future years, ensuring that the amount contributed each year qualifies for the maximum government assistance. Once Anna turns 19, she should be eligible for the higher CDSG rate and also CDSB payments, because the level of assistance to which she is entitled will be based on her family income.

The optimal contribution schedule in this scenario is set out in table 1. The amounts are computed by working backward: first, determine the dollar amount of contributions that should be saved in order to maximize CDSG payments in future years; then subtract that total from the lifetime RDSP contribution limit of $200,000. The difference should be contributed in the first year. This contribution schedule will optimize the tax-free growth in the plan and at the same time maximize the government assistance.

PAYMENTS OUT OF AN RDSP

Three types of payments can be made out of an RDSP:[31] repayments of government assistance received by the plan, "disability assistance payments" (DAPs), and transfers from one RDSP to another. The rules governing each type of payment are summarized below.

Repayment of CDSGs and CDSBs: Assistance Holdback Amount

The Canada Disability Savings Regulations contain rules requiring repayment of government assistance paid into an RDSP in certain circumstances.[32]

Under these rules, in the event that

- the RDSP is terminated,
- the beneficiary ceases to be eligible for the DTC,

31 Paragraph 146.4(4)(i).

32 Canada Disability Savings Regulations, regulations 5 through 7.

TABLE 1 Schedule of RDSP Contributions To Maximize the Entitlement to Government Assistance[a]

Year	Age of beneficiary	Contribution	CDSG	CDSB
	years		*dollars*	
2009	10	165,000	1,000	na
2010	11	1,000	1,000	na
2011	12	1,000	1,000	na
2012	13	1,000	1,000	na
2013	14	1,000	1,000	na
2014	15	1,000	1,000	na
2015	16	1,000	1,000	na
2016	17	1,000	1,000	na
2017	18	1,000	1,000	na
2018	19	1,500	3,500	1,000
2019	20	1,500	3,500	1,000
2020	21	1,500	3,500	1,000
2021	22	1,500	3,500	1,000
2022	23	1,500	3,500	1,000
2023	24	1,500	3,500	1,000
2024	25	1,500	3,500	1,000
2025	26	1,500	3,500	1,000
2026	27	1,500	3,500	1,000
2027	28	1,500	3,500	1,000
2028	29	1,500	3,500	1,000
2029	30	1,500	3,500	1,000
2030	31	1,500	3,500	1,000
2031	32	1,500	3,500	1,000
2032	33	1,500	3,500	1,000
2033	34	1,500	3,500	1,000
2034	35	1,500	3,500	1,000
2035	36	1,500	1,500	1,000
2036	37	nil	na	1,000
2037	38	nil	na	1,000
		200,000	70,000	20,000

[a] Assumptions: (1) A registered disability savings plan (RDSP) is opened in 2009 by the parents of a beneficiary who is 10 years old; (2) in 2009 through 2017, the parents' family income is above the threshold for entitlement to Canada disability savings bond (CDSB) assistance and above the threshold for the higher matching rate for Canada disability savings grants (CDSGs); (3) in 2018, when the beneficiary turns 19, and in all subsequent years, the beneficiary's family income is below both thresholds, entitling her to the maximum level of CDSB and CDSG assistance.

- a DAP is made from the plan, or
- the beneficiary dies,

the issuer must repay all CDSGs and CDSBs paid into the plan in the 10 years preceding that event (less any repayments of such assistance made during that period). However, the amount of such repayment shall not exceed the fair market value

(FMV) of the assets held in the plan. For this purpose, the RDSP issuer must keep an "assistance holdback amount" available in the plan to cover the repayment of government deposits if required.[33]

The assistance holdback rule was put in place to ensure that RDSPs are used to promote long-term savings,[34] and to prevent government grants and bonds from being essentially "recycled" through withdrawals in order to obtain matching grants in future years. However, the rule is complex, and has been met with several objections from prospective issuers.

When the original draft RDSP rules were released in October 2007,[35] comments on the rules were solicited from the general public. Feedback was provided by several financial institutions and non-profit organizations, some of which expressed concern about the "administrative complexity" surrounding the assistance holdback amount.[36]

As originally proposed, the assistance holdback amount included not only CDSGs and CDSBs paid into the plan over a 10-year period, but also any investment earnings or growth thereon. Realizing that this would be nearly impossible to track, the government removed the earnings/growth component from the assistance holdback amount.

In the spring of 2008, the government held additional RDSP consultation sessions, in which several stakeholders asked that the assistance holdback amount be reviewed again. One of the biggest outstanding issues is the need to track not only the amounts of contributions, CDSGs, and CDSBs, but the date on which each payment was received. This would be essential to properly determine the assistance holdback amount if an RDSP were to be transferred from one issuer to another (see "RDSP Transfers" below).

The government has indicated[37] that a closer examination of the assistance holdback amount will be part of the three-year RDSP review mandated by the 2008 budget.[38]

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33 Ibid., regulation 5 and the definition of "assistance holdback amount" in regulation 1. This definition also applies for purposes of the Income Tax Act (see subsection 146.4(1)).

34 See the Department of Finance Regulatory Impact Analysis Statement issued on June 5, 2008 in conjunction with the Canada Disability Savings Regulations: *Canada Gazette Part II*, supra note 28, 1408-12, at 1409.

35 Canada, Department of Finance, *Legislative Proposals, Explanatory Notes and Overview Relating to Registered Disability Savings Plans* (Ottawa: Department of Finance, October 2007).

36 For example, the Investment Funds Institute of Canada has formally written to the minister of finance in this regard. For a description of the consultation process and the outcome, see *Canada Gazette Part II*, supra note 28, at 1410-11.

37 See Regulatory Impact Analysis Statement, *Canada Gazette Part II*, supra note 28, at 1411.

38 Canada, Department of Finance, 2008 Budget, Budget Plan, February 26, 2008, annex 4, at 263: "To ensure that RDSPs meet the needs of Canadians with severe disabilities and their families, the RDSP program will be reviewed three years after plans become operational, as recommended in the December 2006 report of the Expert Panel on Financial Security for Children with Severe Disabilities."

Disability Assistance Payments

A disability assistance payment is any payment made to an RDSP beneficiary from the RDSP during the beneficiary's lifetime or to the beneficiary's estate after the death of the beneficiary.[39] The withdrawals are partially tax-free and partially taxable, on the basis of a prorated portion of contributions over the FMV of the plan (discussed below).

The plan can stipulate whether DAPs are permitted. Under the legislation, generally a DAP can be paid out of the plan at any time, provided that the payment is made to the beneficiary or the beneficiary's estate. However, the issuer is prohibited from making a DAP if it could cause the FMV of the RDSP's assets to fall below the assistance holdback amount.[40] For example, if the assistance holdback amount is $10,000 but, owing to market conditions, the RDSP's assets have dropped to $9,000, no DAPs can be paid out. This measure is meant to ensure that the RDSP has enough assets to meet any potential repayment obligations. As well, if government assistance exceeds private contributions to the plan, total DAPs in the year must not exceed a specified formula (the "lifetime disability assistance payment" [LDAP] formula, discussed below), which is based on the FMV of assets in the plan and the beneficiary's age.

The amount by which a DAP exceeds the non-taxable portion of the DAP (see below under "RDSPs and Taxes") must be included in the beneficiary's income or the deceased beneficiary's estate, as the case may be.[41]

Lifetime Disability Assistance Payments

"Lifetime disability assistance payments" are a subset of DAPs that are specifically identified as such in the terms of an RDSP and that, once they commence, are payable at least annually until either the beneficiary dies or the plan is terminated.[42] The terms of an RDSP must also stipulate whether or not the plan permits DAPs that are not LDAPs.[43]

LDAPs must begin no later than the end of the year in which the beneficiary turns 60.[44] The maximum LDAP that may be paid out in any given year is determined by a formula based on the current FMV of the assets in the plan and the beneficiary's age.[45] The purpose of the formula is to allow the RDSP assets to be paid out more or less evenly over the beneficiary's remaining years.

39 Subsection 146.4(1), the definition of "disability assistance payment."

40 Paragraph 146.4(4)(j).

41 Subsection 146.4(6).

42 Subsection 146.4(1), the definition of "lifetime disability assistance payments."

43 Paragraph 146.4(4)(m).

44 Paragraph 146.4(4)(k).

45 Paragraph 146.4(4)(l).

The formula limiting the maximum amount of LDAPs that can be made in any year is as follows:

$$A/(B + 3 - C) + D,$$

where

$A =$ the fair market value (FMV) of the RDSP assets on January 1 of that year, other than the value of any locked-in annuities held in the plan;
$B =$ the greater of 80 and the beneficiary's age (in whole years) on January 1 of that year;
$C =$ the beneficiary's age (in whole years) on January 1 of that year; and
$D =$ the total amount of periodic payments received by the RDSP in the year under a locked-in annuity held by the RDSP on January 1 of that year.

Therefore, once the beneficiary reaches age 80, the annual limit on LDAPs will be equal to one-third of the RDSP's opening assets that year.

Note that the FMV of the RDSP specifically ignores the value of a locked-in annuity. A locked-in annuity is essentially a lifetime annuity with a guarantee period of 15 years or less that cannot be surrendered. As a result of variable D in the above formula, the annual LDAP limit can never be less than the annuity payment received by the RDSP from a locked-in annuity in that year.[46]

Shortened Life Expectancy

The annual LDAP limit will not apply if the issuer of the plan has been provided with written certification by a medical doctor that the beneficiary is not likely to survive more than five years. The year of certification (or the year in which such certification is received by the issuer) and the following five years are referred to as "specified years."[47]

Note that for the year of certification to be a specified year, the RDSP issuer must have been provided with the certificate in that particular calendar year. Therefore, if a doctor issues a medical certificate in November 2009 but the issuer does not receive a copy of it until January 2010, the specified years will commence in 2010, not 2009, and continue through 2014.

Restricted Years—Maximum/Minimum DAP Rules

There is a special rule that limits the amount that can be paid out of an RDSP in certain circumstances. The rule states that if in any calendar year the total of all CDSGs and CDSBs paid into any RDSP on behalf of a particular beneficiary in previous years exceeds the total of contributions (other than by a permitted transfer) to RDSPs of

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46 Ibid.

47 Defined in subsection 146.4(1).

the beneficiary in those years, the maximum DAP payable out of the particular plan is limited to the amount determined by the LDAP formula above.[48]

In other words, in such a year (referred to here as a "restricted year"),[49] total DAPs cannot exceed the LDAP formula.

Example 5: Calculation of a DAP

Steven is the beneficiary of an RDSP with an FMV of $400,000 in 2045. The total of all contributions to the plan in previous years is $15,000, and the matching CDSGs and CDSBs paid into the plan total $55,000. No government assistance has been paid into the plan since 2030; therefore, there is no repayment requirement in respect of withdrawals from the plan. Steven is 55 and would like a payment from the RDSP. What is the maximum DAP that Steven can receive in 2045, assuming that the plan holds no locked-in annuities?

Since the total government deposits into the RDSP ($55,000) exceed the total contributions ($15,000), the maximum DAP that Steven can receive is restricted by the LDAP formula, $A/(B + 3 - C) + D$. As discussed above, A is the current FMV of the RDSP's assets; B is the greater of 80 and the beneficiary's age at the beginning of the current year; C is the beneficiary's current age; and D is the amount, if any, received by the RDSP from a locked-in annuity. Applying the formula to Steven's RDSP gives us

$$\$400,000/(80 + 3 - 55) + 0 = \$14,286.$$

The maximum DAP limit does not apply in the case of shortened life expectancy (that is, a specified year). It also does not apply if the beneficiary has died and the plan's remaining assets are being paid to the beneficiary's estate.

The rules also require a minimum DAP to be made in certain circumstances. In the year that the beneficiary of an RDSP turns 60 and thereafter, if the total of all government grants and bonds paid into any RDSP on behalf of the beneficiary in all previous calendar years exceeds the total of the contributions (other than permitted transfers) made to all RDSPs in those years, there is a minimum annual withdrawal requirement[50] determined by the LDAP formula above.

As a practical matter, this means that in situations where the bulk of the RDSP has been funded with government assistance (CDSGs and/or CDSBs) as opposed to private taxpayer contributions, once the beneficiary is at least 60, the issuer must pay out the amount determined by the LDAP formula above. (Obviously, if the plan's assets have declined significantly in value owing to market losses, the issuer need only pay out what is in the plan.)

48 Subparagraph 146.4(4)(n)(i).

49 The "restricted year" terminology is borrowed from the Department of Finance's explanatory notes to paragraph 146.4(4)(l), supra note 35, at 49.

50 Subparagraph 146.4(4)(n)(ii).

If an RDSP beneficiary is between the ages of 27 and 58 (inclusive), he or she has the right to direct that DAPs be made from the plan to himself or herself in a restricted year.[51] The purpose of this rule is likely twofold. First, it is to ensure that if the beneficiary asks for a DAP, such payment will not trigger repayment of government grants and bonds paid into the RDSP while the beneficiary was a minor, pursuant to the assistance holdback rule. (The rule only requires repayment of CDSGs and CDSBs paid into the plan in the preceding 10 years.) The other purpose of the rule is to ensure that government assistance is actually available to a beneficiary, even if a holder (who is not the beneficiary) refuses to authorize any DAPs. This is an important condition, particularly for adult beneficiaries of RDSPs set up by their parents before they attained the age of majority. Absent this condition, the adult beneficiary would have no say as to the amount or timing of a DAP; however, it applies only where government assistance exceeds private contributions.

RDSP Transfers

The holder is allowed to transfer the assets or value of the RDSP from one issuer to another, subject to the rules in the Income Tax Act governing such transfers.[52] Where there are multiple holders, all holders must agree to request the transfer. The transferor is obligated to transfer not just the plan assets (or value) but all historical information held by that issuer with respect to CDSGs, CDSBs, and contributions,[53] so that the new RDSP issuer will be in a position to determine the appropriate pro rata taxability of future DAPs, as well as the assistance holdback amount in the event that repayment of government assistance is required.

Since there can only be one RDSP for any given beneficiary at any time (other than an overlap period permitted during a plan transfer), the transferring RDSP must be terminated immediately following the transfer.[54]

Once an RDSP beneficiary is at least 60 years of age and LDAPs have commenced, upon a transfer of an RDSP from one issuer to another, the receiving plan issuer must undertake to pay to the beneficiary any DAPs that the transferring plan would have been required to make during the remainder of the year had the transfer not taken place, including the minimum payments that the transferring RDSP would otherwise have been required to make, as discussed above.[55]

DEATH OF THE BENEFICIARY

In the event of the beneficiary's death, the RDSP assets must be paid out to the deceased beneficiary's estate (less any assistance holdback amount that must be repaid to

51 Subparagraph 146.4(4)(n)(iii).

52 Subsection 146.4(8).

53 Paragraph 146.4(4)(o).

54 Paragraph 146.4(8)(b).

55 Paragraph 146.4(8)(d).

the government) by the end of the year following the year of the beneficiary's death.[56] This means that the RDSP assets will pass in accordance with the beneficiary's will, or if there is no will, in accordance with the rules applicable to an intestacy.

RDSPs AND TAXES

Taxability of RDSP Payments

When a DAP is made from an RDSP and received by the beneficiary, the payment must be apportioned between its taxable and non-taxable components. The portion of the payment that is non-taxable is calculated according to the following formula:[57]

$$DAP \times \frac{\text{Total RDSP contributions} - \text{Prior non-taxable payments}}{\text{FMV of RDSP assets} - \text{Assistance holdback amount}}.$$

As a result of this formula, any increase in the FMV of the RDSP's assets (owing to new contributions, CDSG and CDSB deposits, income from the plan's investments, or growth in the value of its assets) will increase the taxable portion of the DAP.

Example 6: Taxation of RDSP Payments

In 2050, Erica's RDSP is worth $400,000, consisting of $65,000 in contributions, $70,000 in CDSGs, and $20,000 in CDSBs, with the balance attributed to income/growth in the plan. The assistance holdback amount is zero, since no CDSGs or CDSBs were received after 2039. Erica will receive an LDAP payment of $10,000. How much is taxable?

Using the formula above, the non-taxable portion of the LDAP payment is simply the ratio of contributions to plan value multiplied by the LDAP payment of $10,000. The calculation [$10,000 × ($65,000/$400,000)] gives us a non-taxable portion of $1,625 (or 16.25 percent), with the balance of $8,375 being taxable to Erica.

Taxability of RDSPs

Generally, any income or gains earned by the RDSP trust are non-taxable while in the trust.[58] There are a few exceptions to this rule.

First, if the RDSP trust has a loan outstanding in the year, all of the trust's income will be taxable.[59]

Second, if the RDSP trust carried on a business in a year, it is taxable on the income from that business.[60]

56 Subparagraph 146.4(4)(p)(i).

57 Subsection 146.4(7).

58 Subsection 146.4(5).

59 Paragraph 146.4(5)(a).

60 Paragraph 146.4(5)(b).

Finally, if an RDSP trust holds investments other than "qualified investments,"[61] it must pay tax on any income earned on non-qualified investments and on any capital gains realized from the disposition of such investments. Note that both capital dividends[62] (which are normally tax-free)[63] and capital gains (which are normally half-taxable)[64] in relation to non-qualified investments would be fully taxable.[65]

It is worth mentioning that the issuer of an RDSP is required "to exercise the care, diligence and skill of a reasonably prudent person" to minimize the chances that an RDSP holder may become liable to pay tax as a result of the acquisition of non-qualifying investments or the disposition of assets for inadequate consideration.[66]

PROHIBITED CONTRIBUTIONS

Prohibited contributions include contributions in excess of the $200,000 maximum and contributions made either without the written consent of the holder, after the death of the beneficiary, after the beneficiary is no longer DTC-eligible, or after the beneficiary turned 60 or became non-resident. Such contributions will generally cause an RDSP to become non-compliant and face deregistration.

The minister, however, has the authority to waive the deregistration of the RDSP if the prohibited contribution is withdrawn from the RDSP within a specified period of time, to be determined by the minister.[67] In such a case, the prohibited contribution is deemed never to have been made, and the withdrawal is deemed not to be a DAP (and therefore is non-taxable).

If a beneficiary of an RDSP dies or no longer has a "severe and prolonged impairment," such that the DTC is no longer available, the RDSP should be terminated by the end of the following calendar year.[68] If it is still in existence beyond that time, the RDSP will immediately become non-compliant.

If, however, the RDSP issuer is unaware that the beneficiary has died, or that the beneficiary's DTC eligibility has been revoked or is otherwise in doubt, the minister may permit an extension of the deadline for termination of the RDSP.[69]

This rule is especially helpful in cases where the beneficiary's DTC status is uncertain or in dispute, since it allows the RDSP to continue until the issue is resolved. This can take months or even years if the issue proceeds to litigation.

61 Defined in subsection 205(1).

62 Subparagraph 146.4(5)(b)(i).

63 Section 83.

64 Paragraph 38(a).

65 Subparagraph 146.4(5)(b)(ii).

66 Paragraph 146.4(13)(d).

67 Paragraph 146.4(12)(c).

68 Paragraph 146.4(4)(p).

69 Paragraph 146.4(12)(d).

Once the matter is settled, if the beneficiary's DTC eligibility is ultimately confirmed, the RDSP can continue. On the other hand, if it is ultimately determined that the beneficiary is no longer DTC-eligible, the minister can set a new deadline for termination of the plan. This would have the beneficial result of preserving the tax-deferred growth on RDSP assets from the date of dispute until the date of resolution.

NON-COMPLIANT RDSPs

If an RDSP becomes non-compliant at any time—for example, for failure to meet the conditions of registration or failure to properly administer the CDSGs and CDSBs[70]—it immediately loses its registered status.[71] If that occurs, the plan is deemed to have made a DAP to the beneficiary (or, if the beneficiary has died, to the beneficiary's estate) immediately before the deregistration of the plan.[72] This "deemed payment" is equal to the FMV of the RDSP's assets immediately before deregistration less any assistance holdback amount. The taxable portion of this deemed DAP must be included in the income of the beneficiary (or the beneficiary's estate) for the year in which the payment was deemed to be made, as discussed above.

An RDSP may also be deregistered if all or a portion of the required assistance holdback amount is included in a DAP.[73] In this event, the RDSP is deemed to have made an additional DAP, equal to the portion of the assistance holdback amount paid out, to the beneficiary (or the beneficiary's estate) immediately before the RDSP was deregistered. This deemed payment is fully taxable to the beneficiary (or the beneficiary's estate);[74] however, if all or a portion of the payment is ultimately paid back to the government, the beneficiary (or estate) is entitled to an offsetting deduction equal to the amount repaid.[75]

Note that the minister has the discretion to either delay or waive the deregistration of a non-compliant RDSP "if it is just and equitable to do so."[76]

EFFECT ON OTHER DISABILITY PROGRAMS AND BENEFITS

Many government programs at both the federal and provincial levels are either income- or asset-tested, such that any income earned or assets accumulated in excess of a specified threshold will either disqualify or significantly reduce the amount of government assistance.

70 Paragraphs 146.4(11)(a) and (c).

71 Paragraph 146.4(10)(a).

72 Paragraph 146.4(10)(b).

73 Paragraphs 146.4(10)(c) and 146.4(4)(j).

74 Subparagraph 146.4(10)(c)(iii).

75 Paragraph 60(z).

76 Subsection 146.4(12).

When RDSPs were first announced, the federal government took the lead to ensure that when income from the assets held in an RDSP is withdrawn by the beneficiary, the withdrawal does not reduce the beneficiary's entitlement to federal income-tested benefits delivered through the tax system, such as the federal sales tax credit or the child tax benefit. In addition, RDSP income to the beneficiary will not reduce old age security benefits or employment insurance benefits.[77]

All provinces and territories provide various levels of income support for disabled persons, which are means-tested. The Expert Panel on Financial Security for Children with Severe Disabilities recommended that in order for the RDSP program to be effective, RDSP assets should not disqualify a plan beneficiary from receiving provincial or territorial income support provided to persons with disabilities. In addition, the expert panel recommended that income payments from the plan should not reduce income support provided under these programs.[78]

In the 2007 federal budget, the minister of finance stated that his department, working in collaboration with the minister of human resources and skills development, would work closely with all the provinces and territories "to ensure that the RDSP is an effective savings vehicle to improve the financial security and well-being of children with severe disabilities."[79] Subsequently, all provinces and two of the territories announced either a full or partial exemption of RDSP assets and income from provincial asset- or income-tested disability benefits.[80] The current exemptions are presented in table 2.

77 For these purposes, amendments have been made to the definition of "adjusted income" in subsection 122.5(1), section 122.6, and subsection 180.2(1) of the Income Tax Act, and the definition of "income" in section 144 of the Employment Insurance Act, SC 1996, c. 23.

78 *A New Beginning*, supra note 2, recommendation 15, at 59.

79 Supra note 1, at 382.

80 See, for example, Alberta, Seniors and Community Supports, "Alberta Supports New Federal Disability Savings Plan," *Information Bulletin*, November 27, 2008; Saskatchewan, Social Services, "New Exemption Will Benefit People with Disabilities and Parents of Children with Disabilities," *News Release*, September 4, 2008; Manitoba, Family Services and Housing, "Rewarding Work Strategy To Reduce Rent Burden, Help Build Savings for Low-Income Manitobans in Uncertain Times: Mackintosh," *News Release*, November 21, 2008; Ontario, Ministry of Community and Social Services, "Ontario Supports Registered Disability Savings Plans," *News Release*, November 30, 2008; New Brunswick, Department of Social Development, "Province Helps Families Save for Long-Term Financial Needs of Persons with Disabilities," *News Release*, December 10, 2008; Nova Scotia, Department of Community Services, "Province Helps Families Save More for Relatives with Disabilities," *News Release*, February 11, 2009; Prince Edward Island, Social Services and Seniors, "Prince Edward Island Government Helps Families Save for People with Disabilities," *News Release*, December 4, 2008; and Northwest Territories, Hon. Jackson Lafferty, "Registered Disability Savings Plan Exemption," Statement to the Legislative Assembly, February 6, 2009. Also see BC Reg. 98/2009 amending Employment and Assistance Regulation, BC Reg. 263/2002; Individual and Family Assistance Regulation, Quebec OC 1073-2006 (as amended), and NL Reg. 41/08 amending Income and Employment Support Regulations, NL Reg. 144/04; and Social Assistance Regulation, Yukon OIC 2008/68.

TABLE 2 Provincial and Territorial Exemption of RDSP Assets and Income from Income-Tested Programs

Province	Exemption
British Columbia	Full exemption
Alberta	Full exemption
Saskatchewan	Full exemption
Manitoba	Full exemption
Ontario	Full exemption
Quebec	Partial exemption[a]
New Brunswick	Partial exemption[b]
Nova Scotia	Full exemption
Prince Edward Island	Partial exemption[c]
Newfoundland and Labrador	Full exemption
Yukon	Full exemption
Northwest Territories	Full exemption
Nunavut	Decision pending

[a] Exempts the RDSP as an asset and partially exempts income received out of the plan. Exemption of the income is allowed up to the low-income threshold set by the Institut de la statistique du Québec. This works out to $300 a month in income for a single adult and $340 a month in income for a couple.

[b] Exempts the RDSP as an asset and partially exempts income received out of the plan. This works out to $800 a month in income for an adult, and will be adjusted for fluctuations in the low-income cutoff threshold.

[c] Exempts the RDSP as an asset and income received out of the plan in calculating eligibility for income-tested social programs for applicants whose total income does not exceed the low-income level defined by the National Council of Welfare.

Source: Planned Lifetime Advocacy Network, *Provincial/Territorial Updates—Registered Disability Savings Plan* (Vancouver: PLAN, 2009), 1-3.

RDSPs VERSUS TRUSTS

Until the advent of the RDSP, most planning for persons with disabilities focused on the use of trusts. Specifically, a fully discretionary trust (widely referred to as a "Henson trust")[81] is often used to protect the assets, including an inheritance, on behalf of the disabled beneficiary and to preserve the beneficiary's rights to collect asset-tested government benefits and entitlements.

Since the trust is fully discretionary and there is no direct entitlement of the beneficiary to the trust's assets, the general rule in most provinces is that funds in

81 Named after the Ontario Court of Appeal decision in *Ontario (Director of Income Maintenance) v. Henson* (1989), 36 ETR 192, involving a father who established a fully discretionary trust for his daughter. The Ontario Ministry of Community and Social Services tried to look through the trust such that the daughter would be disqualified from certain asset-tested government benefits. The court ruled in her favour, finding that the assets did not belong to her. For an excellent guide to the use of Henson trusts, see Harry Beatty, Mary Louise Dickson, and John Stapleton, *Consider a Henson Trust* (Thornhill, ON: The Reena Foundation, 2008) (available online at http://www.reena.org/pdfs/hensontrust.pdf). (The Reena Foundation is a non-profit agency dedicated to integrating adults with developmental disabilities into the mainstream of society.)

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. This is consistent with the treatment of RDSP assets in most provinces, as discussed above.

Clearly, the ability to collect CDSGs and CDSBs will be a major factor in the decision to use an RDSP as opposed to a Henson trust, assuming that a contributor's funds are limited. In addition, the costs of setting up and maintaining the trust (annual trustee fees, tax return filing fees, etc.) may reduce its ultimate benefit unless significant funds are available to settle the trust. Keep in mind, however, that funds contributed to an RDSP may only be paid to the beneficiary or the beneficiary's estate. There is no option to "sprinkle" assets among other family members while the beneficiary is alive or when the beneficiary dies, nor can assets revert back to the contributor(s). A trust likely affords more flexibility in this regard.

One final consideration is that in the case of a mentally disabled person who lacks the capacity to make a will, the distributions of any remaining funds in an RDSP will be governed by provincial intestacy rules. By contrast, if money is set aside for the support of a disabled dependant through a trust, upon the death of that individual, the assets in the trust can flow directly to other beneficiaries chosen by the settlor of the trust.

For wealthier parents, however, an RDSP will likely be used in conjunction with a Henson trust to provide for a disabled child.

CONCLUSION

The federal tax system, through general disability credits, itemized medical expense credits, and other deductions, provides significant assistance to disabled individuals and families who support them. Now that assistance is augmented through the introduction of the RDSP.

Contributions to RDSPs, which can be made by disabled individuals, their parents, or other family members or entities, are not tax-deductible; however, similar to RESPs and other registered plans, earnings in an RDSP are tax-deferred while they remain in the plan. Also similar to RESPs, there is no annual contribution limit but only a lifetime cumulative maximum amount. The most significant benefit of the RDSP will likely turn out to be the federal government's matching contributions in the form of CDSGs and CDSBs.

As a result of the additional government supplements and the tax-deferred accumulation within RDSPs, substantial savings can be achieved over time. By strategically planning the amount and timing of contributions, contributors can maximize the available government assistance, even further enhancing private savings.

Payments from an RDSP to a beneficiary can be made at any time and used for any purpose. However, the timing and the amount of payments are constrained, particularly in the early years of the plan, by the assistance holdback rule. This rule has been criticized, particularly by issuers and advocacy groups, and the government has indicated that it will re-examine the holdback requirement as part of its three-year RDSP review.

Annual payments, referred to as lifetime disability assistance payments, must commence no later than the year in which the disabled individual turns 60. The maximum LDAP, determined by formula, is designed to ensure that payments out of the plan will extend over the beneficiary's remaining lifetime. In the case of shortened life expectancy, this annual maximum does not apply.

A portion of any RDSP payments made to the beneficiary must be included in the beneficiary's income. The non-taxable portion, determined by formula, represents the proportion of contributions to the total FMV of the assets in the plan, less the assistance holdback amount, multiplied by the amount of the payment.

RDSP assets and RDSP income will not be taken into account in determining eligibility for most federal and provincial disability programs and benefits.

RDSPs provide opportunities to save for disabled individuals no matter what the family income level. For individuals with modest means, the funding available through CDSGs and CDSBs can provide significant financial support to a disabled relative in future years. For wealthier families, RDSPs will likely be used in conjunction with personal trusts to supplement support. For disabled individuals who want to secure their own future, the RDSP can offer another means to fund their retirement.