

PROFESSIONAL DEVELOPMENT SEMINAR

2011

CONFÉRENCE DE PERFECTIONNEMENT PROFESSIONNEL



**Working
with
SPECIAL NEEDS
clients
Travailler avec
des clients aux
BESOINS SPÉCIAUX**



**THE JEWISH COMMUNITY FOUNDATION OF MONTREAL
LA FONDATION COMMUNAUTAIRE JUIVE DE MONTREAL**



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Registered Disability Savings Plans

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Jewish Community Foundation
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What is an RDSP?

- Most similar to an RESP
- Goal: Help Canadians with Disabilities and their families save for the future
- Earnings accumulate Tax-free until money is taken out of the Plan
- Anyone can contribute to the plan (with permission).



RDSPs

- Opening an RDSP
- Eligibility
- Contributions
- Canada Disability Savings Bond and Grant
- Carry Forward Amounts
- Rollovers
- Payments from RDSPs
- RDSP and Government Benefits
- Best Case for Use / Worst Case
- Additional Considerations



To open an RDSP

- Needs a Beneficiary
 - Person who will receive the money in the future:
 - Under age 60
 - Canadian resident with Social Insurance Number
 - Eligible for the Disability Tax Credit
 - Can only be ONE RDSP per Beneficiary
- Needs a Holder
 - Under age of majority, legal parent or representative
 - Over age of majority, holder is generally beneficiary. In certain circumstances, guardian or legal representative may be eligible to become holder.
- Needs a Financial Institution
 - Not all Financial Institutions offer RDSPs



Contributions

- Anyone can contribute to an RDSP
 - with permission from holder
- No annual contribution limit
- Lifetime contribution limit of \$200,000
- Deadline each year is December 31



Canada Disability Savings Grant

- Matching Grants provided of up to 300% of amount contributed.
- Maximum Grant \$3,500 per year
- Lifetime Limit \$70,000
- Paid into RDSP until the year holder turns 49 years old.



Canada Disability Savings Grant Eligibility

After opening an RDSP, you must

- Be 49 years of age or under
- Make contributions to your RDSP
- For beneficiaries over 18
 - File personal tax returns for past 2 years AND all future taxation years to qualify
- For beneficiaries under 18
 - Parents or guardians must file personal tax returns for past 2 years AND all future taxation years , AND apply for the Canada Child Tax Benefit to qualify



Canada Disability Savings Grant Amount

- Beneficiary Family Income \leq \$83,088 (2011 amount)
 - First \$500 contributed each year, Government will deposit \$3 for every \$1, up to \$1,500 per year
 - Next \$1,000 contributed each year, Government will deposit \$2 for every \$1, up to \$2,000 per year
- Beneficiary Family Income $>$ \$83,088 (2011 amount)
 - First \$1,000 contributed each year, Government will deposit \$1 for every \$1, up to \$1,000 per year

Note: Income amounts updated yearly based on inflation



Canada Disability Savings Bond

- Money the Government will deposit into the RDSP of low-income and modest-income Canadians
- Up to \$1,000 per year
- Lifetime Limit \$20,000
- Paid into RDSP until the year holder turns 49 years old.



Canada Disability Savings Bond Eligibility

After opening an RDSP, you must

- Be 49 years of age or under
- Make contributions to your RDSP
- Have family income < \$41,544 (2011 amount – updated yearly)
- For beneficiaries over 18
 - File personal tax returns for past 2 years AND all future taxation years to qualify
- For beneficiaries under 18
 - Parents or guardians must file personal tax returns for past 2 years AND all future taxation years , AND apply for the Canada Child Tax Benefit to qualify



Canada Disability Savings Bond Amount

- Beneficiary Family Income \leq \$24,183 (2011 amount)
 - Government will deposit \$1,000 each year
- Beneficiary Family Income is between \$24,183 and \$41,544 (2011 amount)
 - Government deposits a portion of the \$1,000 to an RSDP each year
 - As income increases, the bond amount paid decreases

Note: Income amounts updated yearly based on inflation



Carryforwards

- 2010 Budget allows for catch-up of unused Grant and Bond entitlements, effective January 2011
- From past 10 years (since 2008, year RSDP started)
- Depends on family income in years in question and amount of contributions
- Annual maximum of unused entitlements
 - \$10,500 for grants (i.e. 3 years)
 - \$10,000 for bonds (i.e. 10 years)
- Lifetime maximum limits apply
 - \$70,000 for grants
 - \$20,000 for bonds



Rollover to RDSPs

After June 30, 2011

- Rollover from RRSPs, RRIFs and RPPs allowed to RDSPs
- To the financially dependant infirm child or grandchild of the deceased
- Remember maximum of \$200,000 lifetime contribution



RDSP Payments

There are 3 types of payments that may be made from an RDSP

- Disability Assistance Payments (DAP) & Lifetime Disability Assistance Payments (LDAP)
- Repayments of Grants and Bonds to the Government
- Transfer of ALL property from current RDSP to another RDSP



Disability Assistance Payments (DAP)

- **Any** payments made from the Plan to the beneficiary or the estate
- A DAP is **NOT** permitted if the FMV of the property in the Plan is **LESS** than the Assistance Holdback Amount
- The Assistance Holdback Amount is generally the total amount of bonds and grants paid into an RDSP within the last 10 year period, less any amount that has been repaid to HRSDC.



Lifetime Disability Assistance Payments (LDAP)

- LDAPs are DAPs that, once started, must at least annually until either the plan has terminated or the beneficiary has died.
- LDA Payments must begin by the end of the year in which the beneficiary turns 60 (unless a specified year – i.e. physician certifies the beneficiary will not live longer than 5 years).
- LDAPs are subject to an annual maximum withdrawal limit determined by formula.
- There is also a formula for the non-taxable portion of the DAP



Additional Rules

Special rules apply for DAPs if the RDSP is Primarily Government Assisted during the year. Which means that:

- Total of all Grants and Bonds paid into the RDSP before the year is

MORE than the

- Total of all Private Contributions made before the year



Cessation of Disability

- Plan must Close AND all amounts must be paid out by December 31 following the first calendar year in which the beneficiary is no longer considered to have a severe or prolonged impairment of physical or mental functions.
- i.e. no longer eligible for Disability Tax Credit



Death of Beneficiary

- Plan must Close AND all amounts must be paid out to the beneficiaries estate and the plan terminated, by December 31 following the calendar year that the beneficiary dies.
- Any funds remaining after any required repayment of government grants and bonds will be paid to the estate.
- Any DAPs made following death are included in the income of the beneficiary's estate taxation year in which the payment is made.



Taxes Payable on RDSPs (1/2)

- Tax on Disability Assistance Payments (DAPs and LDAPs)
 - Grants, Bonds and Investment income earned in an RDSP is included in the beneficiary's income when paid out of the Plan.
- Tax on Non-Qualified Investments
 - 50% of the FMV of the non qualified investment property.
 - Form RC4532, Individual Tax Return for Registered Disability Savings Plan
 - Due no later than 90 days after calendar year.



Taxes Payable on RDSPs (2/2)

- Tax on Advantage
 - A benefit or loan that depends on the existence of the RDSP.
 - Tax is the FMV of the benefit, or the amount of the loan
 - Form: RC4532
- Tax on Inadequate Consideration
 - RDSP disposes a property for less than the FMV, or
 - RDSP acquires a property for greater than FMV.
 - Tax is equal to the difference between consideration and FMV.
 - Form: T3GR (form and tax filed by the issuer, not the holder)
- Tax on Use of Property as Security
 - Tax is equal to the FMV of the property at the time it commenced to be used as a security
 - Form: T3GR



RDSP and Federal Benefits

Money paid out of a RDSP do not effect eligibility for

- Canada Child Tax Benefit
- GST Credit
- Old Age Security
- Employment Insurance



RDSP and Social Assistance (Quebec)

RDSP Assets

- Exempted from social assistance calculations, so long as it is in the RDSP
- Issue: If RDSP closes due to no longer being disabled

RDSP Withdrawals

- Exempt up to a maximum defined by MESS

Cautionary Note: Rules in existence today may change significantly over lifetime.



Best Case for Use

Where disabled individual is:

- Permanently Disabled, and
- Physically Disabled, and
- Normal Life expectancy, and
- Able to manage without social assistance, and
- Has sufficient family to ensure no future Public Curator



Worst Case for Use

Where disabled individual is:

- Temporarily Disabled (account will close upon no longer being disabled)
- Intellectually Disabled (loss of mental capacity can cause asset control issues both during life and after death).
- Less than Normal Life expectancy (may not be able to take advantage of “Long Term Savings Plan”)
- Unable to manage without social assistance (Current Quebec rules have clawback based on DAPs. Quebec could change rules on assets)
- Where Public Curator is in future (may lose control of assets)



Additional Considerations

- Using RDSP for High Net Worth Family Situation is only one tool
- If Individual will be working, important to consider full impact of RDSP vs. RRSP Contributions
- As RDSP goes to Estate on death, therefore must ensure Will exists for disabled individual

