

Changes coming for RDSPs?

Senate committee's recommendations would increase enrolment and make accessing funds easier for planholders

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A recent report from the standing Senate Committee on Social Affairs, Science and Technology makes 16 recommendations that would make the disability tax credit (DTC) and registered disability savings plans (RDSPs) more accessible. If you have clients who may qualify for an RDSP, they may be affected by these recommendations.

“If the recommendations that are in the Senate report were simply followed,” says Tim Ames, executive director of the *Plan Institute* in Vancouver, “you would see a significant shift in people getting the disability tax credit in place, getting the RDSP in place [and] realizing the use of RDSP funds potentially much sooner than they do today.”

The report's recommendations aim to increase enrolment in RDSPs by expanding eligibility, addressing legal capacity issues and allowing beneficiaries to access funds held within their RDSPs sooner.

Currently, a beneficiary first must be eligible for the DTC to open an RDSP. The DTC is available only to eligible individuals with certain prolonged impairments. The committee's report notes that the DTC-eligible population represents fewer than 40% of the population living with severe disabilities.

Furthermore, the report states, fewer than 40% of the more than 1.8 million adults who do qualify for the DTC actually claim that credit. And only 24.3% of the DTC-eligible population had an RDSP as of 2015.

The RDSP is a long-term savings vehicle for people with disabilities that allows for up to \$200,000 in contributions until the end of the year in which the beneficiary turns 59 years old. The federal government kicks in additional funds in the form of Canada disability savings grants, totalling up to \$70,000, and Canada disability savings bonds, totalling up to \$20,000. These government subsidies can be made until the year in which the RDSP's beneficiary turns 49.

One of the report's recommendations is for the federal government to broaden the eligibility criteria for an RDSP beyond those of the DTC so that people who qualify for provincial and territorial disability support programs also are able to have an RDSP. Another recommendation calls for the automatic enrolment of individuals into an RDSP once they become eligible for the DTC or disability welfare benefits.

Both recommendations could increase the number of people who open RDSPs, but each solution could raise other issues.

Brendon Pooran, founding lawyer with ***Pooran Law Professional Corp.*** in Toronto, points out that if more people qualify for social assistance than for the DTC, the social assistance funding system, in general, could become strained. He believes a recommendation to streamline the application process for all disability support programs is a better option.

Pooran would rather see more guidance and information on provincial plans and the DTC for people applying for an RDSP.

The issue of mental capacity adds another hurdle for some people attempting to gain access to an RDSP. An adult's disabilities may be such that he or she cannot act as the planholder of his or her own RDSP. One solution is to have that person declared legally incompetent and appoint a guardian who can act on behalf of the plan's beneficiary. However, some individuals and their families may be hesitant to use this measure if the disabled person lacks the capacity to hold an RDSP, but does not otherwise need to be declared legally incompetent.

The committee's report recommends that the federal government work with the provinces and territories to reform legislation regarding legal capacity and representation to ensure people over the age of 18 with disabilities can access the RDSP program. Currently, some provinces, such as British Columbia, have procedures in place to deal with capacity issues; other provinces, such as Ontario, don't.

Pooran believes the RDSP program would be greatly improved if the federal government were to implement a national strategy, as opposed to each province having its own program. "We don't want a patchwork solution across the country," he says.

The committee's report also recommends giving RDSP beneficiaries easier access to their benefits. Currently, RDSP beneficiaries must wait 10 years from the time the last government bond and grant are paid (as mentioned above, that happens at age 49) to make withdrawals, which poses problems because many people with disabilities live in poverty. The report recommends reducing the waiting period to five years.

Adopting such a recommendation would make the RDSP more flexible and perhaps encourage people who have hesitated to open a plan because of the longer wait time.

Advocates for disabled Canadians want to see even greater flexibility in allowing withdrawals from RDSPs. The B.C. government's RDSP Action Group, of which the Plan Institute is a member, states that RDSPs should have options similar to those of RRSPs, such as the Homebuyers' Plan, that would allow for withdrawals for specific disability needs, such as medical expenses.