

# Halifax Estate Planning Council Practitioners' Update September 15, 2008

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# Practitioners Update

1. Tax Free Savings Account

2. Registered Disability Savings Plans

# Tax Free Savings Account

Introduced in 2008 Federal Budget

## Eligibility

- Individuals over 18
- Must be resident in Canada
- Annual limit \$5,000 starting in 2009
  - To be indexed in increments of \$500
- Unused contribution room will carry forward indefinitely

# Tax Free Savings Account

## Taxation

- Contributions not deductible
- Income and capital gains not taxed
- Withdrawals are tax-free
  - No restrictions on how withdrawals are used
- Withdrawals create contribution room for future savings
  - Can re-contribute amounts withdrawn

# Tax Free Savings Account

## Taxation (con't)

- Withdrawals do not reduce income – based benefits and credits, for example:
  - Canada Child Tax Benefit
  - OAS claw-back
  - GST credit
  - Age credit
  - EI benefits
  - GIS benefits

# Tax Free Savings Account

## Taxation (con't)

- No attribution with respect to funds given to spouse to contribute to his/her own TFSA
- Interest on borrowings to fund TFSA not tax deductible
  - TFSA can be used as collateral security

# Tax Free Savings Account

## Qualified investments

- Qualified investments parallel those for RRSPs
  - Publicly traded securities
  - Mutual Funds
  - Corporate and Government bonds
  - GICs
  - Shares of qualifying small business corporations
- Cannot hold interests in NAL companies
  - Specified shareholder test

# Tax Free Savings Account

## Treatment on Death

- Loss of tax-exempt status
  - income after death is taxable
- Income before death remains tax exempt
- Spouse can be named successor account holder – tax exempt status of plan continues
- Or assets of deceased's TFSA can be transferred to spouse's TFSA
  - Does not affect spouse's contribution room



# Tax Free Savings Account

## Marriage Breakdown

- Amount may be transferred from the TFSA of one party to the TFSA of the other party
- Transfer does not reinstate contribution room of transferor
- Transfer does not affect contribution room of transferee

# Tax Free Savings Account

## Non-Residents

- An individual who becomes non-resident can maintain TFSA
- Income earned in TFSA remains exempt
- Non-resident cannot make a contribution
- Contribution room will not accrue while taxpayer is non-resident

# Tax Free Savings Account

## Reporting

- CRA will determine TFSA contribution room for individuals who file tax returns
- TFSA issuers will have to file annual information returns
  - Account value at beginning and end of year
  - Contributions
  - Withdrawals
  - Transfers

# Tax Free Savings Account

## Recent CRA publications for plan administrators

- Form RC236 – Application for a Tax-Free Savings Account Identification Number
- TFSA Application Package – Approval process – August 29, 2008
- FAQs for TFSA issuers – September 8, 2008
- TFSA Reporting data elements – September 8, 2008

# Tax Free Savings Account

## Provincial Budgets

- Provinces which have specifically stated they will harmonize with federal TFSA:
  - Alberta
  - Manitoba
  - Ontario
  - Quebec

# Tax Free Savings Account

## Planning points

- TFSAs should become part of overall financial and tax planning for clients
  - Individuals who have maximized RRSP contributions
  - Individuals who have no RRSP room
  - Individuals in lower brackets who may not benefit from RRSP deduction
- Tax returns should be filed to establish contribution room

# Registered Disability Savings Plan

## Introduced in 2007 federal budget

- Purpose: To enhance long-term financial security of Canadians with disabilities
- Design is similar to RESPs
- Canada Disability Savings Act
  - Legislation relating to payment of grants and bonds by federal government
  - proclaimed into force effective December 1, 2008

# Registered Disability Savings Plan

## Eligibility

- Beneficiaries must be eligible for disability tax credit and a resident of Canada
- Plan holder: parents, beneficiary, legal representative of beneficiary
- Only one beneficiary per plan
- Only one plan per beneficiary
- Cannot be used as collateral security for loan



# Registered Disability Savings Plan

## Contribution limits

- Lifetime limit: \$200,000
- No annual limit
  - May be more beneficial to make annual payments rather than lump sum
- Contributions by anyone, with written consent of plan holder
- Contributions can be made until end of year in which beneficiary turns 59

# Registered Disability Savings Plan

## Canada Disability Savings Grants

- Grants based on contributions and income
- Maximum lifetime grants: \$70,000
- Maximum annual grant: \$3,500
- Grants paid until year beneficiary reaches age 49

# Registered Disability Savings Plan

## Canada Disability Savings Grants

- Family income up to \$74,357 (2007 threshold):
  - 300% on 1<sup>st</sup> \$500
  - plus 200% on next \$1,000
  - Maximum \$3,500 p.a.
- Family income over \$74,357:
  - 100% of first \$1,000
- 2008 indexed threshold: \$75,769

# Registered Disability Savings Plan

## Canada Disability Savings Grants

Example: Contribution by plan holder = \$1,500;  
Family income = \$65,000

- Grant based on 1<sup>st</sup> \$500: \$1,500
- Grant based on next \$1,000: \$2,000
- Total grants \$3,500 (maximum allowable)
- Total funds in plan: \$5,000

# Registered Disability Savings Plan

## Canada Disability Savings Grants

Example: Contribution by plan holder = \$1,500;  
Family income = \$80,000

- Grant based on 1<sup>st</sup> \$1,000: \$1,000
- Total funds in plan: \$2,500

# Registered Disability Savings Plan

## Canada Disability Savings Bonds

- Government contributions to RDSPs of low income families
- Maximum lifetime bonds: \$20,000
- Bonds paid until year beneficiary reaches age 49
- Family income up to \$20,833 (2007 figure):
  - Bond of \$1,000
- Family income \$20,834 to \$37,178:
  - Bond phased out gradually
- Income thresholds to be indexed

# Registered Disability Savings Plan

## Family income

- Defined as “adjusted income” in section 122.6 of ITA
- While beneficiary is a minor – family income is income of parents
- When beneficiary is 19 or older – family income is income of beneficiary and his/her spouse
- Excludes income from RDSPs and universal child care benefit

# Registered Disability Savings Plan

## Taxation

- Contributions not tax deductible
- Contributions not taxed when withdrawn from plan
- Investment income not taxable while in plan
- CDSGs, CDSBs and investment income taxed in beneficiary's hands when withdrawn
- Each payment from RDSP will have a taxable and non-taxable portion



# Registered Disability Savings Plan

## Taxation

- Amounts withdrawn not included in calculating income-tested benefits and credits administered through tax system, for example:
  - Canada Child Tax Benefit
  - GST credit
  - OAS benefits
  - EI benefits

# Registered Disability Savings Plan

## Assistance Holdback Amount:

- CDSGs and CDSBs received by plan for previous 10 years
- Represents amount potentially repayable

## Repayment triggered by:

- Termination of plan
- Loss of registered status of plan
- A withdrawal from the plan
- Beneficiary ceases to be eligible for DTC
- Death of beneficiary

# Registered Disability Savings Plan

## Payments from plan

- Only beneficiary can receive payments
  - Contributor not entitled to a refund of contributions
- Payments must commence by end of year beneficiary turns 60
- Maximum annual limit determined by life expectancy and FMV of plan
- Beneficiary can encroach on capital/income of plan if plan provides for this
  - Withdrawals from plan may trigger requirement to repay CDSGs and CDSBs of preceding 10 years

# Registered Disability Savings Plan

## Mandatory collapse of plan

- When beneficiary ceases to become eligible for DTC
- On death of beneficiary
- Plan must repay CDSGs and CDSBs received in preceding 10 years.
- Remaining funds paid to beneficiary or Estate
- Amount paid, net of contributions, included in beneficiary's or Estate's income

# Registered Disability Savings Plan

## 2008 Budget

- Clarified that mandatory collapse of RDSP will only occur if beneficiary's condition improves so that he/she does not qualify for DTC
- Intention is to prevent a beneficiary from rescinding DTC in order to gain access to funds against plan holder's wishes
- Introduced 3 year review of program
- Government working with financial institutions to put plans in place for 2008

# Registered Disability Savings Plan

Canada Disability Savings Act and Regulations  
effective December 1, 2008

Canada Disability Savings Regulations  
released June 2008

CRA has provided a Sample Pro Forma –  
Declaration of Trust which can be used as a  
template by RDSP issuers

# Registered Disability Savings Plan

## Impact on Provincial assistance

- Intention is to supplement, not reduce, income support provided by other programs
- Federal government working with provinces regarding impact on provincial disability benefits and programs

# Registered Disability Savings Plan

## Impact on Provincial assistance

Provinces that have said that benefits will not reduce provincial assistance payments

- Newfoundland-Labrador
- Manitoba
- Saskatchewan
- British Columbia
- Yukon

Quebec said in its 2007 budget that it would implement a RDSP in its tax system



Thank you!

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