

THIS PUBLICATION IS PART OF A SERIES THAT FOCUSES ON THE UNIQUE NEEDS OF INDIVIDUALS NEARING OR IN RETIREMENT



How will you provide a legacy of care for your heirs with special health care needs? If you have a dependent spouse, child or grandchild in need of lifetime care after your death, then you need a written plan to communicate how that care is to be provided and funded. Money isn't the only or necessarily the most important issue. Quality of life, a supportive network and understanding of your dependent heir's needs, personality and preferences for care are equally as critical. Last minute planning may result in costly and potentially insensitive decision-making; therefore, while you are healthy, it's important to establish a financial plan to include a reserve to cover ongoing expenses for a dependent individual. Furthermore, planning to provide care for you and your dependants in the event of your own incapacity is crucial. Your estate plan should identify who is to manage the assets for your dependent heir and provide direction for income and assets distribution so that access to government benefits may continue. Another consideration is estate equalization for other heirs if a larger portion of your estate is to be allocated to care.

Government benefits and deductions

There are numerous government benefits and tax deductions or credits at your disposal. However, access to government benefits is often determined by a "means test" which considers sources of income and the value of assets owned by the dependant to determine eligibility. For disabled beneficiaries, this can mean that an inheritance may void their eligibility for provincial assistance. In some provinces, setting up a discretionary (Henson) Trust can preserve the individual's rights to benefits. Non-refundable tax credits available to disabled individuals could also be impacted by income from an estate. As an important first step in your planning process, consult with the appropriate legal and accounting professionals, experienced in estate and tax planning for dependants.

Consider life insurance to equalize the estate and create a care fund

It is possible that funds earmarked to provide lifetime care might encroach on assets intended for other heirs; however, you can avoid this situation by using the proceeds from a life insurance plan to provide funds to balance inheritances. Life insurance can also be used to create an immediate and secure source of funds for ongoing care expenses. That said, exercise caution when selecting beneficiaries. It may not be appropriate for dependants to be direct beneficiaries if they are not able to manage their own affairs or if they could lose rights to provincial benefits.

An Insurance Trust may be the appropriate option to ensure financial security or maintain eligibility for benefits. A Trust can be established within a Will. Often, however, a separate Trust is created by a way of Trust Declaration or Trust Agreement to receive life insurance proceeds. Funds paid to the Trust upon death are exempt from probate fees and may be

protected from creditors. In addition, access to funds will not be delayed by the time required to administer your estate.

Use your registered plan

Upon death, the tax on a parent's RRSP or RRIF may be deferred where the beneficiary is a disabled child or grandchild financially dependent on the parent. This "rollover" is available if the funds are transferred to the child's registered plan or used to purchase a qualifying annuity. In situations where it is not desirable for a disabled individual to receive these funds directly into their registered plan, amendments to the tax rules will permit the rollover where the proceeds are to be held by a "Lifetime Benefit Trust" on behalf of the child, provided the Trust purchases a qualifying annuity.

A more recent development originating from the 2010 federal budget extends the rollover provisions to include transfers of RRSPs/RRIFs at death to Registered Disability Savings Plans (see RDSP section) of the deceased individual's financially dependent infirm child or grandchild.

Establish a Trust

A Trust is an excellent vehicle to hold the funds allocated to pay for the care of a dependant. The appointed Trustee can manage the investments and determine what distributions are needed during the dependant's lifetime. Funds that are not used for care during the dependant's lifetime may be subject to a "gift over" to other family members. This may be particularly important if dependants lack the legal capacity to make a Will or are unable to manage their own finances. Trusts created on death, either in one's Will or by a separate Declaration have tax benefits which Trusts created during the contributor's lifetime do not. On the other hand, if you're already paying for care, a Trust created for an adult beneficiary – including an aging parent – during your lifetime, may have immediate income splitting benefits resulting in tax savings. As previously discussed, a discretionary

Henson Trust in some provinces, may also preserve the beneficiary's rights to provincial disability benefits.

Registered Disability Savings Plan (RDSP)

For disabled individuals, a tax-deferred investment savings vehicle similar to the RESP is available. The Registered Disability Savings Plan (RDSP) is a registered savings plan intended to help parents and others save for the long-term financial security of persons with severe or prolonged disabilities who are eligible for the Disability Tax Credit. Contributions up to a lifetime maximum of \$200,000 per beneficiary can be made to an RDSP until the end of the year in which the disabled beneficiary turns 59, with no annual limit. Contributions are not tax deductible; however, any investment earnings that accrue within the plan grow on a tax-deferred basis. When earnings are withdrawn as part of a disability assistance payment, they are taxable in the hands of the beneficiary. Canada Disability Savings Bonds (CDSB) and Canada Disability Savings Grants (CDSG), up to annual and lifetime limits, can be received in an RDSP from the federal government depending on family income. Recent federal budgets have provided further enhancements to RDSPs, including the 10-year carryforward of CDSB and CDSG entitlements, increased flexibility on withdrawals for beneficiaries with a shortened life expectancy and the extension of the existing RRSP/RRIF roll-over rules to allow the roll-over of a deceased's RRSP/RRIF proceeds to the RDSP of a financially dependant child (as previously discussed).

What's next?

Your BMO Nesbitt Burns Investment Advisor is familiar with your financial circumstances and will help you identify the need for dependant care planning. Working with one of our Estate and Insurance Advisors, he or she can help you achieve your estate planning objectives. Your Investment Advisor can also introduce you to one or more professionals who have the expertise you require to plan for dependant care.

October 2012

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