step 5
achieving financial security:
the RDSP, Wills and trusts

Then, when he had flown a while longer,
something brightened toward the north.
It caught his eye, they say,
And then he flew right up against it.

He pushed his mind through
and pulled his body after.

SKAAY, HAIDA POET AND STORYTELLER

Written by the Bromley Family

Saving for Three

As a family, we have volunteered with a variety of organizations to ensure that our daughter's Shannon's life includes a sense of contribution. We have had Shannon involved in baseball and youth programs and do our best to include a family holiday every couple of years that is focused on activities that we can all enjoy. It is a lot of work on our part to make sure Shannon enjoys her life to the fullest.

Keeping Shannon busy and engaged costs money, and we know that we must work with more than an RDSP and a trust. We must also make sure our Wills and life insurance policies are kept up to date.

We need to find ways to provide Shannon with a financially secure future. Yes, we must save for her future, but we must also ensure the right people are in charge of handling her money.

We want the same for our daughter as we do for our son. Just because she was born severely disabled, unable to brush her own teeth or put on her coat, doesn't mean she shouldn't have a good reason to wake up every morning. We want Shannon throughout her adult life to be able to contribute to her community, to have friends and to enjoy a great life.

Rob and I have three people to save for in retirement. While many people struggle to save enough for themselves, we need to make sure to save enough to last Shannon's lifetime as well.

The RDSP has made other family members aware of Shannon's lifelong financial needs and as a bonus, they have contributed as well. We have found that people want to help us with Shannon but don't have the skills to be able to take her out on their own. Contributing to Shannon's RDSP has become another way for friends to participate in Shannon's future.

Financial security is of utmost importance. The RDSP is one of the tools we have embraced as a family to save for Shannon's future.

step 5

Achieving financial security: the RDSP, Wills and trusts

The information in this step will help you prepare and plan for the financial security of your family member but is no substitute for professional legal, financial, and tax advice.

This step will provide an overview of how to plan for and protect the financial well-being of your family member with disabilities now and into the future. While we are around, we can help them out in many ways, although we must keep in mind the rules imposed by the Ontario Disability Support Program (ODSP). In this chapter, we'll explain this program more and what it means financially for your family.

We worry most about what the future will hold. We want to put enough money aside to handle emergencies and unforeseen circumstances. Many people with disabilities live at or below the poverty line. We don't want our family member to just get by. Simply existing is not enough; we also want our family member to have a good life.

This chapter is divided into two main sections:

SECTION ONE: The Registered Disability Savings Plan (RDSP)

SECTION TWO: Wills, Discretionary Trusts, and Estate Planning

The information contained in these two sections will:

- Provide an overview of the Registered Disability Savings Plan (RDSP)
- Provide you with general information on drafting a Will and planning your estate
- Highlight the importance of trusts, particularly Henson or discretionary trusts
- Discuss the relationship among government benefits, the RDSP, and discretionary trusts
- Overall, help you plan for the financial security of your family member

The professionals you choose will be highly skilled but they still need the clarity of your vision to make the right plan for your family.

Building some financial security for your family member doesn't need to be complicated, particularly if you have considered the issues raised in the preceding steps. Sure, it's technical, but Worksheet 10 at the back of this section will help. Once you have completed it, there are good lawyers, accountants, financial planners, and wealth management specialists to help you finalize your plans. This step won't take away all the tough decisions, but the Worksheet is a great place to begin, and remember, you don't have to figure it all out on your own. The professionals you will choose are highly skilled, but they rely on the clarity of your vision, plans, and family circumstances to make the right plan for your family.

Fortunately, we have drawn from the lived experience of thousands of people and their families over many years.

We've learned from them all!

Even those of us with little disposable income or limited assets can still leave something to help our family member. We pass on this accumulated wisdom, knowing that being better prepared will:

- Save you time and money
- Assist you in selecting the right course for your family member
- Make it easier to complete your Will
- Leave you with peace of mind.

You can't believe how relieved you'll feel when you've finally done it!

section one

Registered Disability Savings Plan (RDSP)

Let's face it, money is one of the taboo subjects. We don't like to talk about it and if there is not a lot of it, financial planning for the future can bring up all kinds of emotions. Then add family dynamics of how money is managed in a household, often with one partner playing a more significant role. Stir in a financial industry that can be more focused on sales over service and advice. Then top it off with one of the most complex accounts, the Registered Disability Savings Plan, in the country and you have a perfect recipe for high anxiety and lots of reasons to put off this important step.

The reality for our family members, though, is that they are more likely than most people to have an annual income below the poverty line, be unemployed or underemployed, and face barriers from legislation and regulations that govern government benefits and programs. Relying on government benefits and services alone won't be adequate to meet their needs, to live a secure and good life. That means this step can be one of the most important to take. The good news is, it's also one of the easiest to accomplish and once you open an RDSP, most of the hard work is done.

In the spirit of openness, understanding and using the tools for financial and estate planning can help for the future, but for many families who struggle financially, there will still be a struggle. Maximizing benefits, using tools like the ones that follow, and making sure you take advantage of all the opportunities from government programs and benefits will help. Making things even a little better is good. So, jump in. As the Chinese proverb says, "The best time to plant a tree was 20 years ago. The second-best time is now." Like trees, investments can grow with the benefit of time.

Ontario Disability Support Program

The Ontario Disability Support Program, which is commonly called ODSP, is a provincial government program that provides financial assistance and benefits such as medical, dental, optical, pharmaceutical, and special diet benefits to people with disabilities. To be eligible, a person must meet the required definition of disability and financial criteria.

ODSP provides a monthly income that is indexed to inflation annually for people with disabilities from 18 years of age until they turn 65 and become eligible for seniors' benefits. As we think about estate planning and creating a Will where our family members can inherit money and other assets, we must understand the financial eligibility requirements for ODSP to protect those benefits. When a Will isn't planned carefully, it could cause the complete loss of your family member's ODSP income supports and other health benefits. The good news is, with the proper planning, it can be avoided. We see it far too frequently and there is only so much that can be done to resolve it when it happens.

A person can be the beneficiary of a Henson Trust (or discretionary trust) of any amount without impacting their ODSP benefits.

ODSP considers some assets exempt, meaning they do not affect eligibility for the program. Exempt assets include a person's home, a vehicle for personal use, a Registered Education Savings Plan (RESP), and the funds in their RDSP. A person can also be the beneficiary of a Henson Trust (or discretionary trust) of any amount without impacting their ODSP benefits.

Two other categories of assets are exempt up to certain limits. Liquid assets are exempt up to a total of $40,000. Liquid assets include bank accounts and investment accounts like Tax Free Savings Accounts (TFSAs) or Registered Retirement Savings Plans (RRSPs). If a person receiving ODSP has more than $40,000 in assets, they will not qualify for ODSP until their assets are below the limit. This can mean even a modest inheritance can make someone ineligible for ODSP.

Finally, the person may have up to a total of $100,000 in a discretionary trust, a segregated fund, or a combination of both. This particular asset gives some flexibility to protect ODSP if someone receives a modest inheritance, but it is a band-aid solution and not a substitute for good planning.

We will talk more about how a person's ODSP income support can be impacted if they receive an inheritance in the section on Wills and estate planning.

For more information about the ODSP income support program or the asset restrictions, you can visit planningnetwork.ca or www.ontario.ca.

How is ODSP affected by income?

People receiving ODSP income support can also work and earn income. However, ODSP may clawback payments depending on the amount of money they earn. A person can earn up to $1,000 in net monthly earnings with no impact on their ODSP. Employment earnings above the $1,000 threshold in any given month will result in a clawback of ODSP income support of 75% of the excess amount earned.

Several income sources have no impact on ODSP benefits, most notably: withdrawals from an RDSP; payments from any source used for disability related Items or services; and up to $10,000 per 12-month period in voluntary gifts or payments from any source, including a Henson Trust.

Other sources of income may have an impact when determining the amount of income support provided. When a person on ODSP receives a gift, inheritance or significant payment from a Trust outside of the $10,000 limit, ODSP will likely count that as income in the month it is received. If the amount puts someone over their $40,000 asset limit for the following month, their ODSP benefits would likely be cut off. It can happen that fast. There are some ways to manage inheritances and other gifts, and financial advisors who understand planning for people with disabilities may be able to help mitigate as much as possible after the money has been received but – and we keep repeating this because it happens so often - the best way to mitigate the problem is to create a thoughtful Will that uses the tools available to us to transfer wealth to our family members while protecting other benefits.

The Disability Tax Credit – A Gateway to Federal Benefits

The Disability Tax Credit is a federal tax credit that can be seen as problematic to obtain but beneficial to have. Completing and approving the application can be difficult, but it is worth the effort and (a reasonable) expense to try. The assessment process for the Disability Tax Credit is different from that of ODSP, and qualifying for ODSP does not ensure that a person will qualify for the Disability Tax Credit.

The Disability Tax Credit application must be certified by an eligible medical practitioner. However, it can often be completed with the assistance of government-funded, non-profit organizations providing federal service navigation or through free and paid online tools. A word of caution on Disability Tax Credit Promoters - organizations that promise thousands of dollars in government benefits or tax refunds in exchange for a percentage of the money they get for you for completing the application. While it may seem fast and easy and therefore justify the costs, you don't need to sacrifice 20% or 30% or more of your money to get good support, to be approved for the Disability Tax Credit. For a list of organizations that can help complete the application for free or at a low flat fee, visit www.safeandsecurebook.ca.

Depending on the nature of a person's disabilities, different medical practitioners can verify the application. The list of medical practitioners can change. You can find the current list by visiting www.canada.ca and searching for Disability Tax Credit.

The Disability Tax Credit can reduce the federal income tax a person owes. If a person can't claim all of the tax credit because they don't owe a lot of income tax, they can transfer that credit to a family member who provides financial support, including food, shelter, or clothing.

The Disability Tax Credit also acts as a gateway to additional federal benefits, so it's worth applying for, even if you can't use the full tax credit on your tax return. Some other benefits that a person can be eligible for after being approved for the Disability Tax Credit may include:

- Opening a Registered Disability Savings Plan or RDSP
- The Canada Child Benefit for a child under the age of 18
- The Canada Disability Benefit for people with low incomes between the ages of 18 and 64
- The Canada Dental Care Plan
- The Canada Workers Benefit disability supplement
- Where the person is the beneficiary of one or more Trusts, the amount of income tax these Trusts pays can be reduced by classifying one Trust as a Qualified Disability Trust,
- Any new programs that may come from the federal government for which people with disabilities may qualify.

There is a lot of information available about who qualifies for the Disability Tax Credit, how to apply, and which medical practitioners can certify a Disability Tax Credit application. It's also not uncommon for the federal government to make changes to the Disability Tax Credit. For up-to-date information about the Disability Tax Credit and how to apply, visit planningnetwork.ca or www.disabilityalliancecanada.ca.

Often, the Disability Tax Credit will be approved for a specific time period, which is stated on the approval letter. If it expires, you can reapply at the end of that period. In the past, if the Disability Tax Credit expired, the financial institution holding an RDSP would be required to close the RDSP and return any contributions from the government. This is no longer the case; although personal contributions cannot be made and no government contributions will be received during this time, the RDSP can stay open and invested. The RDSP will be maintained but in a sort of limbo until the Disability Tax Credit has been approved again. It's very important to keep track of when the Disability Tax Credit expires and make sure you reapply on time.

The Canada Disability Benefit

In 2025, the federal government instituted a monthly benefit for low-income Canadians with disabilities between the ages of 18 and 64, called the Canada Disability Benefit. One primary requirement for accessing this benefit is approval for the Disability Tax Credit.

New programs often experience amendments as the effectiveness and administration are evaluated. The RDSP has experienced many changes since its inception in 2008. We can all be hopeful that the Canada Disability Benefit will also see improvements in its administration and impact. For the most current information on the benefit, visit www.canadadisabilitybenefit.ca.

An Introduction to The Registered Disability Savings Plan (RDSP)

The Registered Disability Savings Plan, or RDSP, is a Canadian innovation that can support the financial security of people with disabilities and help them plan for the future. Because the RDSP is intended to be an account for long term savings, it can be an effective tool for your future planning.

There are a variety of investment accounts available for people in Canada to save money for the future, including the Registered Education Savings Plan (RESP), Registered Retirement Savings Plan (RRSP), the Tax-Free Savings Account (TFSA) and First Home Savings Account (FHSA). The RDSP provides benefits and protections for people with disabilities that other accounts don't, making it a valuable tool for our families.

The Disability Tax Credit can reduce the federal income tax a person owes.

Only about one in three eligible people have opened an RDSP. There are lots of reasons why, but the most common are that people aren't aware that the RDSP exists, or they can't find help from a knowledgeable financial professional to open and manage an RDSP. Many organizations, including Partners for Planning and PLAN Institute, hold webinars or provide other opportunities to learn about the RDSP, which can help people and their families feel more confident about opening one.

RDSPs are investment accounts that hold personal contributions, and grants and bonds contributed by the federal government. Ideally, those contributions earn investment returns which might include growth on investments, dividends, interest, or other investment income. Investments can grow tax-deferred in the account.

Although there are opportunities to learn about what an RDSP is and the features that can impact a person's particular circumstances, no one should feel like they have to be an expert in the RDSP before taking advantage of one. After all, we don't become retirement experts before saving money for retirement. We work with financial advisors, planners, and financial institutions and look to them to support our goals and answer our questions. The same should be true of the RDSP. When we work with a financial advisor or planner who understands the rules for the RDSP well, we should expect that they can help us make the most of the RDSP as part of our long-term planning.

Why should I open an RDSP?

The RDSP can be a powerful tool for securing the financial well-being of your family member with disabilities. It can be used for estate planning, preserving and protecting ODSP benefits. Withdrawals from an RDSP can be used any way the beneficiary chooses, and the funds inside the RDSP can grow tax-deferred until withdrawn.

THESE ARE SOME OF THE ADVANTAGES OF AN RDSP:

If a person has an RDSP or makes withdrawals, it does not impact ODSP income or other supports. It is considered an exempt asset for ODSP, meaning it doesn't count against a person's asset limits, but it should be reported to your ODSP caseworker. Additionally, when funds are withdrawn from an RDSP, the withdrawals are not considered income, and as long as a withdrawal does not increase a person's liquid assets above the ODSP asset limit, there is no impact on ODSP benefits.

The maximum lifetime personal contribution limit to an RDSP is $200,000; contributions can be made until the end of the year that the beneficiary turns 59, and anyone can make contributions with the plan holder's permission. This means grandparents, friends, community groups, and other family members can contribute to a person's RDSP to support their long-term financial security. The contributions are not tax-deductible, and once contributed to the RDSP, they become the property of the beneficiary of the RDSP.

Many people contribute monthly or annually to an RDSP and may not reach the full lifetime contribution limit, but that contribution room can be valuable later. For example, if someone has available contribution space and unexpectedly receives a lump sum that raises their liquid assets above the ODSP limits, they can contribute to the RDSP to help maintain ODSP income and benefits. This can protect essential benefits if, for instance, they receive an unplanned inheritance paid directly to them instead of into a Trust.

While these other benefits can be meaningful over a person's lifetime, the most important benefit for many people is that the federal government may provide contributions to the RDSP until the year a person turns 49, which can accelerate the growth of the RDSP.

The federal government provides two kinds of contributions to a person's RDSP. First, for low-income beneficiaries, the government will provide contributions called Canada Disability Savings Bonds, or Bonds, as they are commonly known. People can receive up to $20,000 in Bonds over their lifetime and no contributions are required for Bonds to be paid into the RDSP. The only requirement is that an RDSP is opened and income tax returns for the beneficiary are filed every year.

The federal government can also provide contributions called Canada Disability Savings Grants, or grants. People can receive up to $70,000 in grants over their lifetime. Grants are matching contributions from the federal government; the amount received is based on family income and the amount of contributions to the RDSP each year.

Who Can Open an RDSP?

To be eligible for an RDSP, a person must be a resident of Canada with a Social Insurance Number (SIN), approved for the Disability Tax Credit, and no older than 59 at the end of the year in which the RDSP is opened. However, grants and bonds are only paid to people until the end of the year they turn 49.

The RDSP uses some specific wording that is a little different from most investment accounts. The person who is eligible for the Disability Tax Credit and who will receive the benefit of the funds in the RDSP is known as the beneficiary. The person who opens and manages the RDSP is known as the plan holder. An RDSP can have multiple plan holders but check with your financial institution to ensure they will allow this. The beneficiary and the plan holder may be the same person, but, in specific circumstances, they might not be. The funds in the RDSP are considered the property of the beneficiary regardless of who acts as the plan holder and who has contributed to the RDSP.

- For children under the age of 18 in Ontario, a parent or a legal representative (like a legal guardian) can act as the Plan Holder.
- For adults, 18 years and older, the beneficiary can act as the Plan Holder if they have the capacity to enter into a contract.
- For adults who have been found not contractually competent, that is, they have failed a capacity assessment, then a legal representative like a legal guardian, Power of Attorney, or the Public Guardian and Trustee can act as the Plan Holder.
- For adults where there may be doubts about a person's contractual capacity, no formal capacity assessment is required for a person to have an RDSP. The Plan Holder may be what's called a Qualifying Family Member. The federal government's definition of a Qualifying Family Member includes a parent, spouse, common law spouse, or sibling of the beneficiary but it's possible that will be expanded in the future.

A person can only have one RDSP at a time.

It's also possible that the Qualifying Family Member option may expire and not be offered for new RDSP accounts in the future. If that happens, any existing RDSPs would be grandfathered and allowed to remain open with a Qualifying Family Member as the plan holder.

It should be noted that the Qualifying Family Member rule only applies in those provinces and territories that have not yet created supported decision-making legislation to protect the rights of people who may not have contractual capacity or meet the capacity requirements to create Powers of Attorney. The Qualifying Family Member rule may expand to include additional family members or trusted relationships in the future. It may also become unnecessary if the province of Ontario enacts supported decision-making legislation either for managing the RDSP or more broadly.

A person can only have one RDSP at a time, but an RDSP can be transferred from one financial company to another. If that happens, there is a narrow window of time where a person can have two RDSPs. However, you would not be able to contribute to both during that window.

How Do I Open an RDSP?

For many people, finding a financial institution and a knowledgeable advisor can be a significant barrier to opening an RDSP. It's unfortunate that more financial advisors don't maintain a current understanding of the RDSP to support people with disabilities in accessing this tool. Don't lose hope, though. There is still a robust community of financial advisors who are knowledgeable and can help you navigate the path to opening and managing an RDSP.

Your knowledge of the RDSP, your family circumstances, and your plans for your family member's future will all help you choose the right advisor or financial institution to support you.

Only when you discover yourself can you be secure.

DAPHNE ODJIG

Most, but not all, Canadian banks have some level of RDSP awareness and will open RDSPs. It's worth noting that the process is much smoother when an advisor within your regular bank branch understands the RDSP, though. Many credit unions also offer RDSPs if that's your preference. There are also financial advisors who work outside of banks and credit unions that can help you open an RDSP. Whatever your choice, it's important that you are comfortable with your decision. You should expect that if you choose to change institutions, you will be charged a fee to transfer the account. That fee may be reimbursed by the institution you are moving to, but you should ask in advance if you decide to move.

Some banks and investment companies have self-directed online RDSP accounts. If you choose to use an online platform, you can ask about their level of service and advice for managing and navigating the RDSP rules and investment advice and support before you open the account.

Partners for Planning also provides a directory of financial advisors who understand the RDSP and have experience helping people with disabilities and their families open and manage accounts. The directory can be found at planningnetwork.ca.

To help you narrow down where you want to open an RDSP, we have some questions you may want to ask.

Before you open an RDSP:
Six questions you might ask your financial institution

RDSPs may vary from one financial institution to another. Make sure your family member's RDSP has the flexibility to meet unforeseen circumstances:

1. What support or advice does your company offer to help me understand how the RDSP can be used for my family or family member?

2. How can I contact someone if I have questions about my RDSP? Is there support in the branch, or is there a call centre that I would contact?

3. Do you permit Disability Assistance Payments (lump sum payments)?

4. Are there penalties if I don't meet a contribution schedule?

5. Who do I contact to make contributions or withdrawals for my RDSP?

6. What investment options are available for my RDSP at this institution?

Before you choose a financial advisor:
Eight questions you might ask the advisor

1. Do you have many clients who have RDSPs?

2. Do you provide advice regarding other types of disability benefits and programs?

3. Specifically, how much of an understanding do you have of asset and income limits and other regulations for ODSP?

4. What investment options do you provide in the RDSP?

5. Do you provide advice and support in estate planning to help pass my assets on to my child/grandchild without impacting their benefits?

6. Are you connected to other professionals (estate lawyers or accountants) who provide planning advice for families where a family member has disabilities?

7. Can you give me an example of the planning you've provided for a family with a situation similar to mine?

8. Are there any other planning strategies that you can recommend that I should be considering?

File a Tax Return to Maximize Government Contributions

As mentioned earlier in this chapter, grants and bonds are contributions from the federal government into an RDSP. The amount of grants and bonds that can be received from the government is based on the beneficiary's adjusted net family income and the amount of personal contributions (in the case of grants).

For RDSP beneficiaries under age 18, adjusted net family income is the same amount used in the Canada Child Benefit calculation. It is the adjusted net family income of the parent(s) or legal guardian(s) with whom the child primarily lives.

In the year the beneficiary turns 19 and for the following years, the adjusted net family income is based on the beneficiary's income and, if they have a spouse or common-law partner, their income as well. This is true even if the beneficiary lives with their parents or family members after they turn 18.

When grants and bonds are paid, the amount is actually based on the adjusted net family income from two years earlier. This is because Canadians don't have to file taxes until the end of April each year, and at the beginning of every year, the government only knows your adjusted net family income from two years ago. So, that's what they base the grants and bonds on for that year, regardless of when you make a contribution.

If you are the parent or legal guardian of a child who is the beneficiary of an RDSP, it's essential to file your own tax return every year until they turn 16 to ensure the grants (and bonds) entitlements are maximized. It's a good idea to keep filing tax returns after your child turns 18, but there's no benefit related to the RDSP when you do.

For a child who is the beneficiary of an RDSP, it's important to start filing a tax return in the year the child turns 17 and continue every year. Even if they don't have any taxable income. Filing a tax return for your child won't impact your tax return and will benefit your child in the long run.

If you don't file a tax return for yourself when your child is 16 or younger, or for your child once they turn 17, the government contributions default to the lowest amount of grants, and no bonds are paid at all. If you haven't filed a tax return for a previous year and need to, you can go back and file for up to 10 years prior, making the RDSP eligible for grants and bonds from that period.

Canada Disability Savings Grant (or Grant)

The grants available from the federal government provide a big incentive to contribute to an RDSP and are one of the primary reasons people are often eager to open one. Grants are considered a matching contribution from the government, meaning personal contributions must be made to receive them. Incentives are highest for people with lower family incomes who can receive grants of up to 3 times the amount of their personal contribution. But even higher-income families can receive grants of up to one dollar for every dollar of personal contributions. If it sounds too good to be true, it's not, but there are some restrictions you should be aware of.

Grant amounts are calculated in one of two ways, depending on whether adjusted net family income is above or below the grant income threshold for that year. For example, the threshold in 2025 is $114,750. This threshold is adjusted up for inflation every year. For the current amount, visit www.rdsp.com or planningnetwork.ca.

If your adjusted net family income is below the threshold, and the beneficiary will be 49 years old or younger at the end of the current year, then the grants will be paid as follows:

- Up to the first $500 in personal contributions per year will be matched at $3 in grants for every dollar contributed. Or put another way, you will receive grants of $1,500 if you contribute $500.
- The next $1,000 in personal contributions for the year are eligible for grants of $2 for every dollar contributed. This means you can receive another $2,000 in grants if you contribute an additional $1,000.

This brings the total amount of grants available in a year to $3,500 for personal contributions of $1,500. While not everyone may be able to make $1,500 in contributions, even small amounts contributed to an RDSP can help grow the RDSP.

If your adjusted net family income is above the threshold and the beneficiary will be 49 years old or younger at the end of the year, then the beneficiary is eligible for one dollar in grants for every dollar of personal contributions made up to a maximum of $1,000 in grants for the year.

The maximum amount of grant entitlement that can be received each year is $3,500, and a beneficiary is entitled to receive up to $70,000 in grants in their lifetime, which means opening and contributing to an RDSP as early as possible will help maximize the grants received.

Canada Disability Savings Bond (or Bond)

Where grants are a matching benefit from the government, bonds don't require any contributions to the RDSP in order to receive them. This can be a real benefit to young people with an RDSP as they turn 18 and have very little income, or if their only income comes from the ODSP income support program. People with an RDSP can receive up to $1,000 a year in bonds to a lifetime maximum of $20,000.

Similar to grants, there is also an income threshold to receive the full amount of bonds every year. Although the threshold is much lower, it is still generous enough that many people with low or no taxable income will receive bonds. The income threshold for bonds is also indexed to inflation every year.

For example, in 2025, the income threshold to receive the full $1,000 of bonds is $37,487. For the most up-to-date information about the income threshold, visit www.rdsp.com or planningnetwork.ca. Beneficiaries earning, or for minor children whose adjusted net family income is more than the income threshold, may still be eligible for a partial amount of the bonds. The amount of the bonds will decline for those with incomes above the threshold and will be entirely eliminated if income is about $20,000 more than the threshold, although the phase out threshold is also indexed to inflation.

Any bonds received will have no impact on the lifetime limit for the grants, making beneficiaries eligible for a total of $90,000 in lifetime federal contributions between the grants and bonds.

Carrying Forward Grants and Bonds

Grants and bonds that a person is entitled to but doesn't receive can be carried forward for up to 10 years. That means a person who has been approved for the Disability Tax Credit but has not yet opened an RDSP is still eligible for the grants and bonds from the time of the approval up to a limit of the previous 10 years. The same is true for grants for a beneficiary who had an RDSP but couldn't make enough personal contributions to receive the full amount of grants each year.

> This can be a great reason to open an RDSP today, especially if the beneficiary was eligible for bonds during that period. When a person opens an RDSP, bond entitlements will automatically be calculated and paid into the plan for the preceding 10 years, assuming the person was approved for the Disability Tax Credit during those years.

There are some helpful tips to remember to ensure that a beneficiary is eligible for carry-forward grants and bonds.

- First, the beneficiary must have been a Canadian resident in the year.
- They also must have been Disability Tax Credit eligible for that year, making it important to complete the Disability Tax Credit application retroactively, indicating the earliest year for which the person would have been eligible.
- It's essential to file, or have filed, income tax returns for each of the earlier years, as discussed previously in this chapter.
- One final note, after the year the beneficiary turns 49 years old, they are no longer eligible to receive grants or bonds from the government, even if they were entitled to them from previous years.

The federal government limits the amount of carry-forward grants and bonds that can be received each year. The government will pay carry forward grant entitlements starting with the highest and oldest matching rate first and ending with the newest and lowest matching rate, up to an annual maximum of $10,500. The annual maximum for bonds is $11,000.

The good news is that the government tracks entitlements to grants and bonds carried forward. Every year, typically in February, people under age 50 will receive a Notice of Entitlements letter from Employment Skills Development Canada. The letter details, among other things, the optimum amount to contribute to the RDSP that year to receive the full amount of grants and bonds that could be received if an RDSP is opened. Although more personal contributions can be made to the RDSP, up to the $200,000 lifetime contribution limit, excess contributions will not trigger any more grants in a year.

Let's look at an example. It's January, and Pat, who lives in Barrie, is eligible for the Disability Tax Credit and has been for the previous 5 years but wasn't sure if she would benefit from the RDSP because she doesn't have a lot of extra income to contribute. She saw a webcast about the RDSP, learned about the bonds, and decided to find a financial advisor to help her open an RDSP. She always files her income tax returns every year and has had a net income of $12,000 annually which is below the threshold to receive the maximum entitlement for bonds each year for the last 5 years. Based on this information, Pat is eligible for the full bond amount for the previous 5 years, and the federal government will deposit $6,000 in bonds into her RDSP once it's open.

When Pat opened her RDSP, her family contributed $3,750 to help give it a boost from the start, which made Pat's RDSP eligible to receive grants that she has been carrying forward. Pat is very grateful for the support from her family and knows this will help because she remembers from the webcast that the government will pay the $3 matching grants for each year before paying any $2 matching grants.

Because Pat is eligible for grants for this year as well as the previous 5 years, the government will contribute the oldest and highest amounts of the grants first. Due to her low income, she is eligible for the matching grants of $3 for every $1 contributed for all 6 years before the government starts matching with $2 grants. The chart below shows how the $3,750 contribution would be allocated by the federal government to maximize the grants paid to Pat's RDSP. Pat won't receive any grants for last year or this year because grants are paid based on her income tax return from two years prior.

	Personal Contributions **1st $500** Grant = $3 for Every $1		Personal Contributions **Next $1,000** Grant = $2 for Every $1		**Total Contributions**	
Year	***Personal***	***Grant***	***Personal***	***Grant***	***Personal***	***Grant***
5 years ago	$500	$1,500	$750	$1,500	$1,250	$3,000
4 years ago	$500	$1,500			$500	$1,500
3 years ago	$500	$1,500			$500	$1,500
2 years ago	$500	$1,500			$500	$1,500
1 year ago	$500	$1,500			$500	$1,500
This year	$500	$1,500			$500	$1,500
	$3,000	**$9,000**	**$750**	**$1,500**	**$3,750**	**$10,500**

Combining the three contributions, which include family contributions ($3,750), grants ($10,500) and bonds ($6,000), Pat will have $20,250 in her RDSP to invest.

For detailed examples of how the RDSP can work for your family, please refer to the scenarios later in this step, or try the RDSP calculators at planningnetwork.ca.

Withdrawals and The 10-Year Rule

There are a lot of rules for withdrawals or payments from an RDSP. It shouldn't be surprising that people with RDSPs have questions about how they can get money out of the RDSP and when they can start. We will try to answer most of the questions we have heard over the years and will try not to overload you with too many details. We will also try to stay away from as much of the RDSP specific language as we can to explain the concepts. For starters, withdrawals from RDSPs are typically referred to as payments, but we will stick with withdrawals as our preferred word because that's how people typically refer to the process of taking money out of any kind of account. Once money is withdrawn from the RDSP, it is considered income, by both the provincial and federal governments.

In Ontario, income (or a withdrawal) from an RDSP is exempt for ODSP purposes, meaning it won't impact the beneficiary's ODSP income support in the month it is received. If the money from the withdrawal is not spent in the month it is received, it is considered part of the beneficiary's assets in the next month. If, at the start of the month following the withdrawal, the beneficiary's liquid assets are above the ODSP threshold, they will lose ODSP income support until the excess amount is spent and the beneficiary is back below the threshold.

Federally, income from an RDSP does not affect government benefits l ike the Canada Child Tax Benefit, GST credit or Employment Insurance. It also doesn't trigger clawbacks against any federal benefits, such as the Guaranteed Income Supplement and Old Age Security. This is important because once your family member turns 65 years of age, they move from the provincial ODSP program to the federal Old Age Security and Guaranteed Income Supplement programs.

When withdrawals are made from the RDSP, the portion of the withdrawal that is s or bonds—plus the accumulated investment income— is taxable in the beneficiary's hands, not in the hands of the contributor or plan holder. Determining the proportional breakdown of the withdrawal that is calculated as grants, bonds, and accumulated investment income is based on the proportion of the value of each within the RDSP. The portion of the withdrawal attributed to personal contributions is not taxed.

Working with a financial advisor or financial institution that understands the RDSP well is key to understanding how, when, or how much a withdrawal can be made from your RDSP. There are a number of variables to consider, and your advisor should know your personal circumstances well enough to help you navigate withdrawing from your RDSP.

DAPs AND LDAPs

There are two types of withdrawals that are typically made from an RDSP. Single, one-time withdrawals and recurring withdrawals.

One-time withdrawals are called Disability Assistance Payments, or DAPs, and can be taken at the discretion of the plan holder at any time if there have been personal contributions or accumulated investment earnings to the RDSP and the amount of the withdrawal doesn't exceed the value of the RDSP at the beginning of the year minus any government contributions in the 10 previous years. Note that there can be restrictions on the amount that can be withdrawn in a year as a DAP.

Lifetime Disability Assistance Payments, or LDAPs, are just like they sound. Once started, LDAPs continue for the lifetime of the beneficiary. It's important to know that once you start taking LDAPs from an RDSP, they cannot be turned off. Just like DAPs, LDAPs can be started by the plan holder at any time as long as certain conditions are met, but LDAPs are best started once the beneficiary is older and the personal contributions, grants, and bonds have had time to grow in value through investing.

LDAPs must begin no later than the year the beneficiary turns 60 and the amount is based on a formula that factors in the beneficiary's age and the value of the account at the beginning of the year. The LDAP formula leads to a withdrawal worth a higher percentage of the RDSP as the beneficiary ages.

There is a third withdrawal alternative which can occur when the beneficiary has shortened life expectancy. In this case, the RDSP can be converted to a Specified Disability Savings Plan, or SDSP, which requires certification from a doctor or nurse practitioner. Withdrawals from an SDSP have more flexibility to allow access to the funds in the RDSP. You should consult your financial advisor or financial institution if the beneficiary receives a diagnosis that may shorten their life expectancy.

THE 10 YEAR RULE

The RDSP was created to assist with long-term savings. To discourage early withdrawals from an RDSP there are restrictions on withdrawing funds if you have received any government contributions to the RDSP in the last 10 years.

Ideally, no withdrawals should be made from the RDSP for 10 years after the last grants or bonds are received to avoid repayment of the holdback amount

If withdrawals from an RDSP are made within 10 years of receiving the Canada Disability Savings Grant or Bond, then some or all of the grants or bonds received within the preceding 10 years will be repaid. This repayment is called the assistance holdback. Grants and bonds are repaid at $3 for every $1 of personal contributions withdrawn, so the penalty can feel steep.

Grants and bonds received more than 10 years prior to a withdrawal do not have to be paid back, but that money also can't be withdrawn without penalty if the RDSP has continued to receive government contributions. The newer contributions would be eligible to be paid back to the government if a withdrawal is made. Ideally, no withdrawals should be made from the RDSP for 10 years after the last grants or bonds are received to avoid repayment of the holdback amount. Still, if the withdrawal is necessary, it may be worth the repayment penalty.

You can choose not to receive grants and bonds if you anticipate having to withdraw from the RDSP in the shorter term, but you may be better off receiving the grants and bonds and repaying them later should you actually make the withdrawal. Circumstances may change, and you may not take the withdrawals you anticipated when you opened the account. It could be a far bigger penalty for the growth of your RDSP if you choose not to receive the grants and bonds from the government and don't benefit from the investment earnings you may make from them. Even if you pay back the government contributions because of an early withdrawal, the investment earnings remain inside the RDSP.

One last factor affects withdrawals is whether the RDSP is mainly funded by personal contributions or mostly by government contributions.
If the government has made more contributions, the amount that can be withdrawn from the RDSP in a year is more restricted. Again, your financial advisor or financial institution should be able to explain the withdrawal limits for your personal situation. When personal contributions exceed government contributions, there can be much more flexibility (beyond the holdback repayments) on the amount that can be withdrawn as a DAP, or one-time, withdrawal.

Alternative Ideas to Fund an RDSP

When our children are young, it may not be obvious the path they will take to adulthood. Many more young people with intellectual and developmental disabilities are choosing to pursue a post-secondary education. For families, this can raise the question of whether it is better to fund an RDSP or a Registered Education Savings Plan or RESP, when their child is young.

There is no blanket answer to this question. It depends on the financial means of your family and the age of the child when funds are available to start saving. One option to consider is to fund the RESP and if it turns out that post-secondary education isn't the path the child travels down, the RESP funds can be used to fund the RDSP later. This may be a more beneficial option if there is more than one child and you open a Family RESP.

Investment income earned in an RESP is allowed to be transferred on a tax-free basis to an RESP beneficiary's RDSP. In order to qualify for the RESP rollover, the beneficiary must meet the existing age and residency requirements in relation to RDSP contributions. As well, one of the following conditions, as set out by the federal government, must be met:

- The beneficiary has a severe and prolonged mental impairment that can reasonably be expected to prevent the beneficiary from pursuing post-secondary education
- The RESP has been in existence for at least 10 years, and the beneficiary is at least 21 years of age and is not pursuing post-secondary education, or
- The RESP has been in existence for more than 35 years.

NOTE: Only RESP investment income is actually included in the rollover, and these amounts would not attract grants. RESP government contributions (separate Education Savings Grants and Bonds) cannot be transferred to an RDSP.

Personal contributions made to the RESP will be refunded to the beneficiary. At that point they may be then directed to the RDSP—either in a lump sum or over time—at the discretion of the beneficiary, and these amounts would be treated like ordinary RDSP contributions—that is, they would attract grants.

Finally, as we get ready to move to the Wills and estate planning part of this step, there is an opportunity to fund an RDSP by rolling a Registered Retirement Savings Plan (RRSP) or Registered Retirement Income Fund (RRIF) into an RDSP at the death of a parent or grandparent on whom the beneficiary is financially dependent.

A person is generally considered to be financially dependent if their income is below a low-income threshold (determined annually) or, if their income is above this amount, if you can show financial dependency, typically for food, shelter, or clothing.

> I don't
> need easy.
> I just
> need possible.
>
> BETHANY HAMILTON

Normally the full amount of the assets held in RRSPs and RRIFs become income to the deceased in the year of the death—often leading to a sizeable tax bill. When these assets are passed to the RDSP of a child or grandchild, the tax obligation is deferred from the time of the RSSP or RRIF holder's death to the time of withdrawals from the RDSP. Because the tax is paid when withdrawals from the RDSP is made and by the RDSP beneficiary who can reduce their tax bill through the use of the Disability Tax Credit, this can lead to sizeable tax savings.

As much as $200,000 can be rolled into an RDSP but the amount of the rollover may not exceed the beneficiary's available RDSP contribution room. This means that if contributions have already been made, then the amount will equal $200,000 minus previous personal contributions.

The rollover will count as contributions towards the beneficiary's lifetime limit but will not be matched by Canada Disability Savings Grants. The rollover will be considered as a personal contribution for the purpose of determining whether personal or government contributions are greater which can allow for fewer restrictions on the amount of withdrawals from the RDSP.

An RRSP or RRIF rollover should be considered as part of the estate plan in consultation with your financial planner or advisor, estate lawyer, and potentially, your tax professional to ensure all requirements are met and the estate plan reflects this rollover intention.

Final Tips to get the most out of an RDSP

- Start early
- Contribute regularly
- Maximize Canada Disability Savings Grants
- Remember that anyone can contribute to your family member's RDSP
- Work with a financial advisor or financial institution that has a deep understanding of the RDSP and your family member's personal circumstances
- Use the RDSP calculators to determine your best scenario (planningnetwork.ca)

QUICK QUESTIONS ABOUT THE RDSP

Why should we open an RDSP if our family member is older?

The RDSP has several advantages, no matter how old your family member is. At age 65, people cease to receive Ontario disability assistance. Instead, they receive the Guaranteed Income Supplement (GIS). GIS income, including income from a discretionary Trust, is clawed back at 50 percent. Payments from an RDSP, however, are exempt. Further, the RDSP grows tax-deferred while income in non-registered Trusts is taxable.

Therefore, even though your family member is older and may not receive much, if any, of the grant or bond, it is still to their benefit to have an RDSP. It is important to remember that contributions to an RDSP can be made until December 31 of the year in which your family member turns 59.

Can we use an RDSP as a short-term savings plan?

Yes! As indicated above, an RDSP is still beneficial when your family member is older. Families who want the flexibility to allow their family members to use the RDSP right away should forego the grant and bond in order to have the freedom to start receiving payments today. If your family member is older, then you don't have the option of saving over many years. In this situation, the RDSP could be used as a short-term savings plan.

What happens to my family member's RDSP when they die?

Assets in a beneficiaries RDSP become part of the person's estate and are distributed in accordance with their Will. If they don't have a Will, then their assets are distributed according to provincial laws.

If the beneficiary dies after the 10-year holdback period expires, then the government grant and bond does not have to be returned. Some or all of the grant and bond must be returned, however, if the person dies before the 10-year period is over.

The power of the RDSP

RDSP SCENARIOS

The following scenarios show some specific examples of the value of an RDSP for a person with a disability. No two families are the same, but the scenarios show how opening an RDSP today can provide savings for the future. You can't predict the future, but having savings available in the future can provide flexibility and opportunity when the RDSP beneficiary is ready to start withdrawing from the RDSP. Working with a financial advisor who understands disability-related planning can help you make the best decisions today and well into the future for your family member.

For illustrative purposes, we have estimated the rate of investment returns for the scenarios below at 5.5 percent. Investments can go up and down in value, and returns will vary based on investment selection.

The RDSP and a Young Child

BACKGROUND

Anaya is four years old and was born with a genetic developmental disability. Her mother Lalita has put her career on pause to support Anaya until she is old enough to go to school. Anaya's father, Ashok, is in sales and travels occasionally for his work. Anaya is an only child and is looking forward to starting school. She is adored by both sets of her grandparents, who live nearby.

Anaya has just received approval for the Disability Tax Credit (DTC). It is retroactive to the year she was born. Since the grant and bond entitlement goes back as far as the DTC's approval, she is eligible for grants and bonds going back 5 years, so her whole life.

Ashok's income is below the threshold for the maximum amount of grants but is above the threshold for the bonds. This has been the case for every year since the year Anaya was born.

Lalita and Ashok plan to open an RDSP for Anaya and contribute $125 per month going forward, totalling $1,500 per year to maximize the grants.

Ashok's parents are eager to help and will contribute $2,500 to the RDSP in the first year it is opened. They have many other grandchildren and consider this part of Anaya's inheritance from them.

KEY TAKEAWAYS TO CONSIDER

- Since the DTC was approved back to the year she was born, Anaya has five years of grant entitlements (including for the current year) even though the family hasn't opened an RDSP yet.
- Because of the retroactive grant entitlements, the $2,500 in contributions her grandparents plan to make to the RDSP when it is opened, this will attract $7,500 in matching grants.
- When Anaya turns 18, she will be approved for benefits from the Ontario Disability Support Program (ODSP), which provides monthly disability income benefits. They expect that she will continue to rely on those benefits until she turns 65 years old.

- Since ODSP is her only source of income, she not only continues to qualify for the maximum grant each year, but her income is low enough to qualify for the maximum annual bond as well, starting the year she turns 19.
- If Lalita and Ashok will contribute $125 per month until Anaya turns 23 years old, they will have received the maximum lifetime amount of grant contributions, which is $70,000.
- Since Anaya's annual income is low enough, she will receive $1,000 in bond contributions per year, starting the year she turns 19. It will take until the year she turns 38 to collect the lifetime maximum amount of bond contributions of $20,000.
- If the RDSP investment returns average 5.5% over the life of the RDSP, the approximate market value of the RDSP will be $715,000 by the time she turns 48 years old.
- The very last government contribution, a $1,000 bond, is received the year she turns 38. Since the annual bond contributions are received near the end of February, withdrawals without penalty can commence 10 years later, which would be March of the year Anaya turns 48 years old.

The RDSP and a Young Adult

BACKGROUND

Ryan is thirty years old and lives at home with his mother, Suzanne, and has two older sisters. Ryan's parents divorced when he was young, and his dad, Michael lives close by so they can spend lots of time together. The family has a dog named Benny, and Ryan loves being responsible for taking care of him.

When Ryan turned 18 years old, he started receiving Ontario Disability Support Program (ODSP) income support, which provides him with a monthly income and some medical benefits. They expect he'll continue to rely on, at least in part, these benefits until he turns 65. This is Ryan's only source of income as he has been unable to find a job. He loves animals and dreams of working at an animal shelter one day.

His parents recently attended a financial webcast hosted by Partners for Planning and they learned about the RDSP. The month Ryan turned 30, they opened an RDSP for him, and with the help of a financial advisor, they support him to manage his RDSP.

KEY TAKEAWAYS TO CONSIDER

Since ODSP is Ryan's only source of income, his low income qualifies him for the maximum grant each year, and for the maximum annual bond, as well. Both the grants and the bonds entitlements are retroactive, so Ryan will receive $11,000 in bonds when he opens the account - $1,000 per year for the previous 10 years and an additional $1,000 for this year.

Together, Ryan's parents and his oldest sister have committed to ensure that, together, they will contribute the required amounts to maximize the grant each year.

The last bond contribution will be received by the time Ryan turns 39 years old based on the annual Notice of Entitlements letter they receive.

Ryan's family plans to stop their regular contributions to the RDSP once they have received the full amount of the grants - $70,000.

If they continue contributing the amount required to maximize the grants in February every year, the very last government contribution, a grant, will be received near the end of February in the year that Ryan turns 40. This means that withdrawals without penalty can begin 10 years later, which would be March of the year Ryan turns 50 years old.

Based on their plans to make contributions to maximize the amount of grants received, it would take 10 years to accumulate all the grant and bond contributions and another 10 years until withdrawals could be made without penalty.

section two

Wills, Discretionary Trusts, and Estate Planning

Do not be intimidated by legal language. All professions have their jargon. Some of the key words and phrases you'll encounter in this section are summarized in Financial and Legal Terms at the end of this section.

In praise of the imperfect Will

Surely the true definition of courage is the do the thing you are afraid to do.

GEORGINA BINNIE CLARK

You might have heard the facts before. Over 50 percent of Canadians die without a Will. Many others die with a Will that's out-of-date. You want to avoid joining their ranks. But you don't have all the answers. You still need to work out a few more details. You're just about there... maybe after reading this chapter.

Well, we're sorry to disappoint you. This chapter will not help you create the perfect Will. Neither will any other book, or person for that matter. Don't make the same mistake too many others have made. Don't wait for something that will never happen.

Now is the time to develop and execute the "imperfect" Will. It is one of the biggest gifts you can give to your family and to yourself. Get on with it! Preparing and completing the imperfect Will is not the least you can do; it's the best you can do.

Beginning to create your Will and estate plan

Before you create your Will, you must be clear about the details. Every family situation is unique. You are going to rely on your family after you are gone, so it's a good idea to discuss things with them now. If the person you want to be your estate trustee is intimidated by lawyers or has never invested money, now is the time to find out.

There are other valuable resource people you might consider talking to: extended family, friends, members of your family member's Personal Network, other families in similar circumstances, and so on.

In our experience, it helps families clarify their objectives by talking to others in similar circumstances. The more open and honest your discussions are, the clearer your objectives will be. This will make for a more meaningful and efficient relationship with your lawyer, accountant, and estate planning specialist. When seeking advice on estate planning, tax planning, or wealth management strategies. See Questions to ask an Advisor later in this section.

Nine key objectives

Most people want their Will and estate plan to:

1. Pay their debts, taxes, and other liabilities
2. Minimize their tax liability
3. Distribute their assets according to their wishes
4. Maximize the size of their estate for their beneficiaries
5. Protect the financial security of their family member with a disability (the RDSP and discretionary trusts are your basic tools for this)
6. Ensure that the appropriate estate and disability trustees are in place
7. Ensure that there is a guardian for their children under the age of 18.
8. Avoid delays, family strife, needless taxation, costly legal challenges, probate fees, and government involvement
9. Allocate a portion of their estate to the charities and causes they are passionate about.

Tips from Jack Collins for securing the future

Jack Collins, one of PLAN's co-founders and a co-author of the original edition of the Safe and Secure book, knew much about the legal and financial elements of securing the future. After he retired, he dedicated his time to learning everything possible about the technical aspects of Will and estate planning and how they could be coordinated with government benefits. Although he was a lay person, lawyers, financial and estate planners relied on his insights and advice.

His credibility among families was legendary. They liked his plain-speaking, no-nonsense style. They trusted him because he was one of them. Culled from his vast expertise and its application to thousands of families, here are tips from the master!

- Get a Will as quickly as possible. I have seen what happens when a parent dies without a Will.
- Review your Will every two years and update it when something in your life changes. Additions and amendments (called codicils) are not costly.
- Life insurance is a good way to finance a discretionary trust. For a small monthly premium, you can finance a policy. After you die the proceeds can be placed tax free—and without probate costs—into your family member's discretionary trust.
- Appoint executors and trustees who will outlive you—in other words, appoint someone younger than you—and appoint alternates just in case.
- The year of your death will likely be your highest income year because most investments are deemed sold on the day of your death and any remaining RRSPs or RRIFs get added to your income. Tax and estate planning—including donations to charity—will reduce the tax bite.
- Most of us want the trust capital as well as income to go entirely to our family member. To do so, your trust document must specifically exclude the "even handed rule" so the trustee(s) do not have to consider the rights of residual beneficiaries. If such permission is granted within the trust document, then the trustees will be encouraged to spend down the capital as well as income. Please consult your lawyer on this technical point.
- Grandparents often look for ways to help secure the future of their grandchildren. Suggest they create a discretionary trust—or contribute to an RDSP—for their grandchild with a disability.

PLAN Co-founder Jack Collins passed away on December 5, 2014.

Basic questions about Wills, Trusts and Estates

Once you've added your own personalized objectives to the nine general objectives described above and you are comfortable—well, reasonably comfortable—with your answers, you are ready for the technical solutions. Here are some questions and answers to start you on your way.

What is a Will? A Will is the legal document that tells people what to do with your estate. It helps make life easier for those left behind by providing a plan for them to follow and by naming who is in charge.

What is Estate Planning? Estate planning is quite a broad term. It includes such things as:

- Preparing your Will
- Preparing powers of attorney and advance medical directives and
- Deciding upon issues such as estate trustee (executor) and trustee appointment, and finding ways to minimize probate fees
- Calculating your estate needs and determining the amount of life insurance needed to meet those needs
- Looking at strategies to reduce income taxes at death
- Advising about a trust for you or a trust for your family member with a disability.

What are the basic things I need to think about?

During the course of designing your Will and planning your estate you will need to:

- Appoint an estate trustee to ensure that the instructions in your Will are carried out
- Divide your estate among family (spouse and children), charities, and others. A person who inherits or receives part of your estate is called a beneficiary

- Create a trust or multiple trusts—usually including a discretionary trust—for your family member with a disability and identify a trustee and perhaps co- trustee(s) to manage the trust
- Appoint a guardian for your children who are under the age of 18 years.

What happens if I die without a Will?

If you die without a Will, you have no control over how your estate is divided.

If you die without a Will, provincial laws set out how your estate will be distributed. **Under the Estates Act (Ontario), the court will appoint an administrator who will divide your estate. This means you will have no control over how your estate is divided.** You will not be able to protect the inheritance you want to leave to your family member with a disability.

The funds for your family member may be held in trust by the Accountant of the Superior Court of Justice until they turn 18 years, at which time they will receive their total inheritance outright. **NOTE** This situation may disqualify the beneficiary from receiving ODSP assistance.

If you die without a Will and you have children who are under the age of 18—and there is no surviving parent with custodial rights— then the government will become guardian of those children (see Choosing a guardian for children under the age of 18 later in this section

How much will my children get if I die without a Will?

If you die without a Will, the Succession Law Reform Act and the Family Law Act impact the distribution of your estate. Your spouse can either elect an equalization payment of net family property under the Family Law Act or allow the Succession Law Reform Act to apply to the entire distribution of your assets. The Succession Law Reform Act directs that:

- The first $200,000 of your property goes to your spouse
- If you die leaving one child, one-half of the remainder of your estate goes to your spouse and one-half goes to your child

- If you die leaving more than one child, one-third of the remainder of your estate goes to your spouse and the remaining two-thirds is divided equally among your children
- Your next-of-kin will have to go to court to be allowed to deal with your estate.

NOTE The Succession Law Reform Act requires that your Will provide adequately for your dependents, which could include your spouse, your parents, your children or your siblings.

NOTE The definition of "spouse" in the Succession Law Reform Act includes:

a) An individual of either gender who has lived with and cohabitated with you for at least three years in a marriage-like relationship; or

b) An individual of either gender who has lived with and cohabitated with you in a relationship of some permanence and is the parent of your child.

If a spouse or child feels you have not provided adequately for them in your Will, then they can ask the court to change your Will to get a larger share of the estate. This must be done within six months of probate.

WHAT HAPPENS TO MINOR CHILDREN WHEN YOU DIE WITHOUT A WILL? If you have young children and you die without a Will, here's what happens:

ONE

If there is a surviving spouse, they get the first $200,000 of the estate. Anything over $200,000 is shared between the spouse and the descendants (e.g. children, grand- children) according to specific rules.

The funds for your children will be paid into court and held by the Accountant of the Superior Court of Justice (ASCJ) until your children reach the age of majority.

The surviving spouse will have to apply to the ASCJ to access the money held in trust for the use, maintenance and benefit of the child(ren).

TWO

If there is no surviving parent—that is, you both die—or there is no surviving parent who has legal custody, the court will decide who becomes the guardian of the person.

If you have children under the age of 18, you should appoint a guardian for them in your Will.

For another family member or family friend to become guardian, they will have to apply to the court. To prevent a costly, complicated, and potentially messy and heart-breaking outcome, you must make a Will. If you have children under the age of 18, you should name a legal guardian for those children.

NOTE The funds for your children may be held in trust by the Accountant of the Superior Court of Justice until your children reach the age of majority unless that amount is less than $10,000 and is not payable under a court order, or a guardianship application is made by the surviving spouse to manage the child's property.

WHO IS THE OFFICE OF THE CHILDREN'S LAWYER? The Office of the Children's Lawyer is responsible for protecting the interests of children who are under the age of 18 years. Your estate trustee is required to provide estate and trust accounts that are presented for court approval to the Children's Lawyer whenever a minor or unborn person has a vested or future interest in an estate.

ODSP ASSISTANCE - The Ontario Disability Support Program (ODSP) is a provincial government program that provides financial assistance as well as supplements such as medical, dental, optical, pharmaceutical and special diet benefits to people with disabilities. To be eligible, a person must meet the required definition of disability and financial criteria. You can look up your local ODSP office on the internet.

* Note that the amount of ODSP is adjusted each year based on inflation. People on ODSP can also apply for a special diet amount of up to $250 per month.

Once people are 18 years of age, they are entitled to ODSP if:

- They qualify as a person with a disability under the Ontario Disability Support Program Act
- They have less than $40,000 in non-exempt assets; that is, things a person owns including money and investments.

If an individual on ODSP has assets of more than $40,000, then they may be cut off until their assets are worth less than $40,000. There are, however, a few exempt assets. For example, individuals on ODSP are entitled to be the beneficiary of a discretionary trust of any amount of money, an RDSP of any amount, a Registered Education Savings Plan, or of a non- discretionary trust and/or the owner of a segregated fund with a combined amount of up to $100,000, without being cut off.

Individuals on ODSP are also entitled to own certain exempt assets which don't count as part of the $40,000 limit. This includes a home they live in, a car they use, and their RDSP as noted above. These are substantial benefits.

For more information about asset exemptions, please visit www.mcss.gov.on/ca and search for ODSP Directive 4.1. Definition and Treatment of Assets.

How ODSP is affected by income

EARNED INCOME People on ODSP can work and earn income. However, ODSP claws back payments depending on the amount of money a person earns. A person can earn up to $1,000 in net earnings per month in addition to a $100 work-related benefit. Employment earnings that exceed the $1,000 threshold in any given month will be clawed back and at a rate of 75%.

OTHER INCOME Other sources of income are also taken in account when determining both eligibility and the amount of income support to be provided to the individual. There are several income exemptions, most notably: payments from any source used for disability related Items or services; and an amount of up to $10,000 per 12-month period in voluntary gifts or payments from any source. For a complete list of income inclusions and exemptions, please visit www.mcss.gov.on/ca and search for ODSP Directive 5.1. Definition and Treatment of Income.

HOW ODSP IS AFFECTED BY INCOME SUCH AS AN INHERITANCE? If people on ODSP receive income from an inheritance, a life insurance payout, or other financial windfall, then their amount of assistance may be reduced or suspended until they have only $40,000 left. If the person on ODSP has the capacity to enter a contract, then they can place up to $100,000 in a non-discretionary trust and/or a segregate fund and up to $200,000 in an RDSP without affecting their ODSP eligibility.

NOTE While there is a ceiling of $100,000 for non-discretionary trusts, there is no ceiling for discretionary trusts. That is why we strongly recommend you set up a Henson Trust which is a discretionary trust. The non-discretionary trust can only protect $100,000 of the assets from an inheritance or settlement. Any trust can be set up for an ODSP recipient during your lifetime or after your death; however, different income tax rules may apply. See below for the discussion on discretionary trusts.

WHAT BENEFITS DOES MY FAMILY MEMBER QUALIFY FOR ONCE THEY TURN 65? When your family member reaches the age of 65, they will move from provincial income assistance to federal seniors benefits: Old Age Security (OAS) and Guaranteed Income Supplement (GIS). Together, these two benefits typically exceed what a person would receive as ODSP income.

Old Age Security is not asset or income tested. This means that all senior Canadians receive a monthly amount whether they have assets or income.

The Guaranteed Income Supplement is the federal government program that helps low-income seniors. It is not asset-tested; it is, however, income-tested. This can be complicated so it's best to investigate this further. To determine your eligibility and estimate your benefits, please visit https://www.canada.ca

The good news for holders of RDSPs is that the Guaranteed Income Supplement will not be affected by income received from a RDSP. In other words, RDSP income is exempt.

CAN I SET UP AN RDSP AND A DISCRETIONARY TRUST? Yes you can. There are benefits to each and you may want to do both. In general, the RDSP is designed to build savings and can be used while parents are still alive. Discretionary trusts are typically designed to manage the inheritance you leave for your family member. A discretionary trust in your Will becomes operational only after you die. Discretionary trusts can also be created as inter-vivos trusts that take effect while you are still alive.

NOTE If a grandparent sets up a discretionary trust, then the money may become available before the parent dies.

WHY SHOULD I SET UP A DISCRETIONARY TRUST? A trust may be advisable for many reasons:

- To ensure the availability of ongoing government benefits such as ODSP
- To help your family member with a disability during their lifetime and then to pass on funds that remain to another generation or a chosen charity
- To protect a vulnerable family member from being taken advantage of by those with bad motives and those with good intentions but limited skills or judgment
- To provide ongoing financial management of assets

- To take advantage of special tax treatment
- To give some protection of assets if a family member goes through a marriage breakdown or has creditors.

WHAT PROVISIONS SHOULD I ADD TO MY WILL TO BENEFIT MY FAMILY MEMBER WITH A DISABILITY? You can set up a trust in your Will for the person with a disability. The best course of action is to talk to a lawyer who has expertise in providing Wills and estate advice to families of people with disabilities.

> Family is not an important thing, it's everything.
>
> MICHAEL J. FOX

There are two common trusts used by families of people with disabilities: non-discretionary trusts, also called government-regulated trusts, inheritance trusts or shelter trusts, and discretionary trusts, also called Henson Trusts.

NON-DISCRETIONARY TRUSTS A non-discretionary trust can be set up in two ways. One way is by a friend or family member of the person with a disability. The other way is by the person with a disability, if the person has the capacity to manage property.

Regardless of who sets up the trust, if the amount of money in the non-discretionary trust is under $100,000 it will not be treated as an asset for individuals on ODSP. It's important to note that these trusts are reviewed by the provincial government and need to be designed properly to be approved. For example, there must be at least one trustee in addition to the beneficiary.

If the total of the capital contribution and income generated by the non-discretionary trust exceeds $100,000, then the individual may no longer be eligible for ODSP. Funds from the trust can be spent on disability-related costs without affecting the individual's entitlement to ODSP.

A non-discretionary trust means that the beneficiary of the trust can request payment of funds out of the trust and the trustee has no discretion. The trustee must pay out the requested fund.

HENSON TRUSTS Most families of people with disabilities choose to set up a Henson Trust in their Will. To do this, you appoint a trustee—and possibly co-trustee(s)—as the person(s) who will be in charge of the trust. You give the trustee(s) the discretion—or power—to decide when and how much of the trust fund will be used from time to time for the beneficiary, in this case your family member with a disability. Your trustee(s) can then gauge your family member's changing needs over time and adjust disbursements accordingly.

HOW DOES A HENSON TRUST AFFECT MY FAMILY MEMBER? Most important, a discretionary trust allows the beneficiary to continue to receive ODSP benefits. The trustee(s) will buy your family member what is needed. The trustee(s)—not your family member with a disability—will decide how to spend money in the trust. That is why it is not considered your family member's asset. Decisions are made in someone else's discretion.

Henson Trusts are not considered an asset for the purpose of ODSP eligibility. There is no ceiling on the amount that can be placed in a Henson Trust. The trustee(s) can use the trust for anything, but certain payments will be exempt from the unearned income rules including up to $10,000 in any 12-month period and payments for disability-related expenses. There is no limit to money coming out of a Henson Trust that is used for disability-related expenses.

Make sure you and your advisors have current information about these rules by checking the P4P Planning Network or the Ministry of Children, Community and Social Services website for regular updates.

TAX PLANNING & TRUSTS There are a couple of other trusts that should be considered when planning for a family member with a disability that may have significant tax related benefits.

Qualified Disability Trust

A Qualified Disability Trust (QDT) is not a separate trust. Rather, it is a designation for an existing trust, including a Henson Trust. A QDT designation allows the income generated by the trust to be taxed at lower rates (graduated rates as opposed to the highest marginal rate).

A Trust would qualify as a Qualified Disability Trust (QTD) if it meets the following criteria:

- It must be testamentary. This means it must come into effect upon the death of the person making the Trust.
- The Trust must be located in Canada for the Trust year.
- At least one Beneficiary of the Trust must be eligible for the Disability Tax Credit (DTC).
- The trustee and the Beneficiary must make an annual election in the tax return for the Trust.

Lifetime Benefit Trust

A Lifetime Benefit Trust (LBT) is a lesser-known tax savings vehicle that allows you to rollover the proceeds of your RRSP, RRIF or LRIF into a trust for the benefit of a "mentally infirm" spouse, dependent child, or dependent grandchild. The rollover is treated as tax deferred, which means that the RRSPs and RRIFs are not taxed as income to your estate, as they otherwise would be.

To qualify:

- The beneficiary must be a child, grandchild, and or spouse of common-law partner who have an intellectual disability;
- Child or grandchild must be financially dependent (due to the nature of their disability) on the deceased at the time of death;

- The proceeds of the RRSP or RRIF must be used to purchase a qualifying trust annuity, and the Trust must be named as annuitant of that annuity; and
- The Beneficiary or by the Beneficiary's legal representative, must make an election, which means they must opt in for this specific tax treatment.

WHAT HAPPENS TO THE MONEY LEFT IN THE TRUST WHEN THE BENEFICIARY DIES? When you set up a trust, you must also identify who will get what is left in the trust when the beneficiary dies. This could be the beneficiary's spouse, children, siblings, other family members, charities or anyone else.

You should be careful to avoid a potential conflict of interest when you choose the trustees of the trust you establish for your family member.

If the person inheriting the residual amount of the trust (the residual beneficiary) is the only person responsible for making spending decisions when the primary beneficiary dies, then there is a potential conflict of interest. One solution is to appoint co-trustees. We suggest you discuss this matter with your lawyer.

WHAT DOES A TRUSTEE DO?

The trustee:

- Manages or looks after the trust assets
- Makes sure your family member receives trust benefits according to your wishes.

If you decide to set up a trust for your family member, you will need to name the trustee in your Will. Choosing a trustee is one of the most crucial decisions you will make about future planning. The person you choose may have responsibilities as a trustee for 40 years or more.

It is a good idea to have more than one trustee. For example, you may want to have two trustees and two alternates in case the original trustees cannot act or cannot agree. It's also a good idea to choose a trustee who is much younger than you in age. You want them to live as long as your family member does!

WHO SHOULD BE A TRUSTEE? You may want to have one trustee with financial skills and a co-trustee who has a personal relationship with your family member. Their skill sets may be different and may complement each other. One trustee might make investment decisions, keep accounts, manage tax returns, and so on. The other trustee—a sibling or friend—would be in a better position to advise on how to spend trust funds.

Choosing a trustee is one of the most crucial decisions you will make about future planning.

You may consider using a respected trust company as one of the trustees. Some families use a trust company as one trustee and a family member or family friend as the other trustee. The trust company can make sure there is experienced financial help to invest and manage the trust assets. The family member, friend or Personal Network member makes sure the funds are spent in the best interests of your family member.

If you name a person as a trustee, then you should also name a successor in case the first person dies, moves or is otherwise not willing or able to continue. It is best if the trustees are people your family member knows and likes. The trustees and your family member will likely be involved with one another for a long time. A good relationship between them will benefit everyone.

At least one of the trustees should live close to your family member. If a trustee has close contact with your family member, they will understand the needs of your family member better.

WHAT ARE THE DUTIES OF A TRUSTEE? The duties of a trustee include:

- Deciding how and when to spend funds
- Making payments to or for the beneficiary
- Managing investments and safekeeping assets
- Coordinating any maintenance/repairs of real estate
- Preparing trust tax returns
- Maintaining records of the trust
- Reporting to the beneficiary about the trust.

IN ONTARIO, DO TRUSTEES GET PAID? You can state in your Will or in a contract (that is incorporated by reference in your Will) how much your trustees are to be compensated. If you don't say how much they should be paid, then court recognized guidelines may be applied. The fees that trustees charge are influenced by the magnitude of the trust and the amount of time, effort, and skill that has been required of them while acting as your trustee.

WHAT INVESTMENT POWERS SHOULD I GIVE MY TRUSTEE? Trustees are limited by law to investments that a prudent person would make. You may give them greater investment powers but you must specify it in your Will. Be sure to discuss this with your lawyer.

CAN I APPOINT A GUARDIAN FOR MY CHILD IN MY WILL? If you have children under the age of 18, you should appoint a guardian for them in your Will. You should also appoint alternates in case the first is not able to accept.

NOTE An appointment only lasts for 90 days unless the Guardian applies to the Court to have the guardianship extended. Within a period of 90 days, the person(s) appointed as guardians for your minor children need to apply to the court for permanent guardianship.

You cannot appoint a guardian for an adult child even if they have a severe disability; however, you can express a wish in your Will that supports an individual to be a guardian of your adult child should this become necessary.

WHO SHOULD BE THE ESTATE TRUSTEE OF MY WILL? The estate trustee is the person who makes sure that the instructions in your Will are carried out after you die. Often people appoint their spouse as their estate trustee, but you may need to appoint someone else or someone jointly with your spouse. You should also appoint alternates in the event the original estate trustee is unable to fulfill their responsibilities.

If you have set up a trust in your Will, sometimes the estate trustee and alternate estate trustee will be the same as your trustees and alternate trustees. However, in some cases—for example where there is business to be managed—you may wish to have different estate trustees and trustees. Talk to your lawyer about this.

WHICH OF MY ASSETS DO NOT FORM PART OF MY ESTATE AND PASS OUTSIDE THE WILL? Generally, assets held in joint tenancy with another person pass directly to that person on your death and are not governed by your Will. This is referred to as a right of survivorship. For example, a home held in joint tenancy with your spouse will go directly to your spouse on your death. However, the right of survivorship does not always apply when assets are held in joint tenancy. For example, if you have a parent has a joint bank account with their adult child, and that adult child has not contributed to the account, it may be presumed that the parent intended for that account to pass to their estate upon their death. It is strongly recommended that you speak with your lawyer to understand the implications of jointly-owned property.

We don't have to choose; we have to talk to each other about what concerns us deeply.

HAROLD RHENISCH

Life insurance policies with a designated beneficiary pass outside the Will directly to that beneficiary.

RRSPs, RRIFs, TFSAs and other registered investment accounts with a designated beneficiary pass directly to that beneficiary.

Quite often when a spouse dies, most of the family assets are held in one of these ways and pass directly to the surviving spouse. Assets which pass outside your Will save estate administration tax (probate fees).

Assets held in trusts that have been established prior to your death are also not part of your estate.

Be sure to consult your lawyer about putting assets in joint tenancy with your children or anyone else as there are dangers as well as benefits in so doing.

SHOULD I MAKE A GIFT TO A CHARITY THROUGH MY WILL? Estates often have a lot of taxes to pay. This is because any funds in RRSPs and RRIFs are considered income in the year of a person's death. Other assets are deemed to be sold in the year of the death. Generally, tax is payable by the estate on this income and any earned capital gains. When you make a gift to a registered charity through your Will, your estate receives a charitable tax receipt which can be used to reduce the income tax that has to be paid.

If you have supported charities while you are alive, you may wish to consider supporting charities through your Will. You should discuss these wishes with your estate planning professionals. Most charities have planned giving programs set up to be able to respond to inquiries about leaving a charity a gift through your Will. You are also able to leave charities gifts of life insurance, property, RRSPs or RRIFs, as well as through many other innovative vehicles. When you have decided on your charity—or charities—of choice, you should consider contacting them to discuss the gift.

WHAT IS PROBATE? Probate is the name of the legal process that confirms the authority of estate trustee(s) and validates your last Will. Normally it is the job of your estate trustee to file your Will for probate with the provincial court and pay estate administration tax (or probate fees). Until your executor receives the grant of probate, assets of your estate cannot be released. Probate fees in Ontario are currently as follows:

Under $50,000	$ 0 for each $1,000 (this means no probate fee for under $50,000)
Over $50,000	$15 for each $1,000

UNDER WHAT CIRCUMSTANCES SHOULD A PERSON WITH A DISABILITY SET UP A TRUST OR MAKE A WILL? Many individuals with disabilities do establish trusts and make Wills. This Will become even more important for people with RDSPs. The law has legal tests which all individuals—with or without a disability—must meet to place their assets in a trust or execute a Will. For example, to create a Will, an individual must know what a Will is and know and understand what their assets and liabilities are and their value. If an individual cannot meet the legal tests required, then they may not be able to settle a trust or make a Will at that time.

An individual's capacity, however, is not a static thing. An individual without the legal capacity to execute a Will may, six months later, have the requisite capacity. Furthermore, lawyers vary in their understanding and appreciation of capacity of people with disabilities. You may find it useful to consult with legal professionals who have familiarity and experience working with individuals with disabilities.

In some circumstances an individual on ODSP may need to put part of their assets into a non-discretionary trust to remain eligible for ODSP benefits. If the individual does not have capacity to create a trust, then a lawyer or advocate may be able to assist in finding another way to assist the individual to remain on ODSP.

QUESTIONS TO ASK AN ADVISOR

When seeking advice on estate planning, tax planning, or wealth management strategies ask:

1. What is your experience, knowledge, and training?
2. How long have you been doing this?
3. How are you compensated for your advice?
4. Have you worked with other families who have a child with a disability?

Seeking advice from professionals

There are a variety of experienced professionals in the future planning business. There is no substitute for good professional help. There are lawyers, financial planners, accountants, and trust companies that have special expertise in helping plan for the needs of children and family members with disabilities. They can help you maximize the size of your estate, save you money, and ensure that your instructions are written in proper legal language. They are guided by principles of confidentiality, prudent administration, and sound judgment.

As with all professional services, be a cautious consumer. Always ask the professional their estimated fee before hiring them. You can also ask other parents or check out the Professional Services Directory on the Partners for Planning website: https://www.planningnetwork.ca/

Life changes

No matter how exhaustive your preparation and thorough your study, your Will may never be complete and will never be perfect. Expect to revise your Will as life changes. The act of revision is fairly painless and inexpensive. And the peace of mind is incalculable.

Eight tips in making your Will if you have a family member with a disability

1. Complete the Will Planning Worksheet at the end of this chapter.
2. Decide how you want your estate distributed. For example: all to spouse and when spouse dies, split among children in equal shares.
3. Appoint an estate trustee and alternate estate trustee.
4. Decide if you want to set up a discretionary trust for your family member with a disability. Ensure there is no conflict of interest. If you do, decide who will be:
    - The trustee of the discretionary trust
    - The beneficiary of the trust when your family member dies.
5. Be aware that the following pass outside the Will:
    - Life insurance with a designated beneficiary
    - RRSPs, RRIFs, TFSAs and other registered investment accounts with a designated beneficiary
    - Assets held in joint tenancy.
6. If you have children under 18 years of age, decide whom you will appoint as their guardian.
7. Take all this information to a lawyer who has experience in wills and estates for families and individuals with disabilities. Ask the lawyer to explain the tax and legal implications of your decisions.
8. Discuss your draft Will with your trustees.

When there's a Will, there's a way!

Financial and Legal Terms

Adjusted Net Family Income: The amount used by the government to calculate eligibility for benefits, based on total family income minus certain deductions.

Beneficiary (RDSP): The person who is eligible for the Disability Tax Credit and is the owner of the funds in the Registered Disability Savings Plan (RDSP), regardless of who is the named plan holder.

Beneficiary (Will or Trust): A person for whom you leave things in a Will or a trust (money, gifts, insurance policy, RRSP, trust).

Bequest: A gift of a specific item of personal property or a specific amount of money identified in your Will.

Canada Child Benefit (CCB): A monthly, tax-free payment to families to help with the cost of raising children under 18.

Canada Dental Care Plan: A federal government program that helps cover the cost of dental care for eligible Canadians without private insurance.

Canada Disability Benefit (CDB): A federal income support program with a monthly payment for low income working-age persons with disabilities.

Canada Disability Savings Bonds: Federal government contributions made directly into a Registered Disability Savings Plan (RDSP) for low-income Canadians with disabilities, even if no personal contributions are made.

Canada Disability Savings Grants: Matching contributions from the federal government to a Registered Disability Savings Plan (RDSP), based on how much the beneficiary contributes and the adjusted net family income.

Canada Workers Benefit – Disability Supplement: A refundable tax credit for low-income workers eligible for the Disability Tax Credit which provides extra financial support in addition to the regular Canada Workers Benefit.

Codicil: A legal document used to change portions of your original Will and requires the same formalities of signing and witnessing needed for a Will.

Continuing Power of Attorney for Property: A legal document that gives a person the authority to conduct and manage your financial affairs even if you become incapable.

Disability Assistance Payments (DAPs): One-time, lump sum withdrawals made from a Registered Disability Savings Plan (RDSP) for the benefit of the person with the disability.

Discretionary Trust (or Henson Trust): A type of trust where the trustee has full control over how and when money is given to the beneficiary. Often used to protect eligibility for government benefits, such as ODSP

Dividends: Payments made to shareholders from a company's profits, usually paid in cash or additional shares.

Entitlements (Bonds): The government contributions a person is eligible to receive into a Registered Disability Savings Plan (RDSP) in the form of Canada Disability Savings Bonds, based on their family income. Entitlements can accrue even if there is no RDSP open.

Entitlements (Grants): The government contributions a person is eligible to receive into a Registered Disability Savings Plan (RDSP) in the form of Canada Disability Savings Grants, based on how much money is contributed to the RDSP and the adjusted net family income. Entitlements can accrue even if there is no RDSP open.

Estate Trustee (Executor): The person(s) or professional named in the Will who is responsible for ensuring that the wishes in your Will are carried out.

First Home Savings Account (FHSA): A registered account that allows Canadians to save for their first home. Contributions are tax-deductible, and withdrawals to buy a home are tax-free.

Grant of Probate: A court order which is the estate trustee's proof they can act as your estate trustee.

Guaranteed Income Supplement (GIS): A monthly, tax-free benefit added to Old Age Security payments for low-income seniors.

Guardian of Property and the Person: The authority to make financial, health, and personal care decisions on behalf of another person.

Henson (or Discretionary) Trust: A type of trust where the trustee has full control over how and when money is given to the beneficiary. Often used to protect eligibility for government benefits, such as ODSP.

Income Threshold: The income level set by the government to determine eligibility for certain benefits or tax credits.

Inter Vivos Trust: A trust that comes into effect during the lifetime of the person who established the trust. Also known as a Living Trust.

Intestate: A person who dies intestate dies without a valid Will.

Investment Returns: The benefit (or loss) from an investment, such as interest, dividends, or capital gains or losses.

Life Interest: Benefit given to someone in a Will which allows that person to have the use of the property or a certain sum of money only for the lifetime of that person. The remainder goes to someone else when the person with the life interest dies.

Liquid Assets: Assets that can easily be converted into cash, such as bank accounts, stocks, bonds or GICs or other investments.

Non-Discretionary Trust: A trust in which trustee does not have complete control over the assets held in trust. For example, the settlor of the trust may set controls over how much can be distributed from the trust to the beneficiary, at what age a beneficiary might receive some or all of the value of the trust, specific items that the money from the trust can be used for or other controls as they see fit.

Non-Probatable Assets: Assets that pass outside of the Will. For example, joint tenant ownership of real estate, and registered accounts, life insurance, or annuities with named beneficiaries.

Old Age Security (OAS): A monthly, income tested, payment from the federal government for Canadians aged 65 and older, based on years of residency in Canada.

Ontario Disability Support Program (ODSP): A social assistance program that provides financial and employment support plus medical, dental, pharmaceutical and special diet benefits provided to eligible people with disabilities in Ontario.

Plan Holder: The person who opens and manages the Registered Disability Savings Plan (RDSP). Who can be the plan holder depends on the age of the beneficiary and other factors.

Power of Attorney for Personal Care: A legal document giving someone else the authority to make personal care decisions on your behalf should you not have the capacity to do so.

Power of Attorney for Property: A legal document that gives a person the authority to conduct and manage your financial affairs like banking, financial and real property, if you become incapable.

Probate: The procedure by which the Will of the deceased person is legally approved by the court and documented. It also confirms the appointment of your estate trustee.

Qualifying Family Member: A parent, spouse, common-law spouse, or sibling who can open and manage a Registered Disability Savings Plan (RDSP) on behalf of an adult beneficiary who may not be able to enter into a contract to manage their own RDSP.

Registered Disability Savings Plan (RDSP): A registered savings plan for people with disabilities to and their families save for the future.

Registered Education Savings Plan (RESP): A registered savings plan to help families save for a child's post-secondary education.

Registered Retirement Savings Plan (RRSP): A registered account that allows you to save for retirement. Contributions are tax-deductible, and taxes are paid when the money is withdrawn.

Revocation: Cancelling an existing Will or power of attorney document.

Segregated Fund: An investment product, offered by insurance companies, that combines the potential for investment growth with certain insurance protections, such as a death benefit.

Settlor: The individual who establishes a trust. The settlor provides the money or other assets that form the trust.

Substitute Decision-Maker: The person legally authorized under the Health Care Consent Act to give or refuse treatment on behalf of another person.

Tax-Deferred: When tax on income, investments, or growth is delayed until a future time, usually when the funds are withdrawn from a registered account like a Registered Disability Savings Plan (RDSP).

Tax-Free Savings Account (TFSA): A registered account that allows you to save or invest money and withdraw it tax-free.

Testamentary Trust: A trust set up in a Will that only takes effect after your death.

Testator: This is you, the person who makes the Will.

Trust: A legal arrangement in which one-person (the settlor) transfers legal title to a trustee to manage the property for the benefit of a person (the beneficiary).

Trustee: The person or company that manages the trust according to the instructions in the trust agreement or Will.

Will: A Will is the legal document that tells people what to do with your estate. It helps make life easier for those left behind by providing a plan for them to follow and by naming who is in charge.

To download a copy of all Worksheets, visit safeandsecurebook.ca and click on *Safe & Secure Worksheets.*

Worksheet 10

Will Planning

Making a Will can be intimidating. That's why it's highly recommended you work with a lawyer. They can help your family consider long-term priorities and goals for your assets. They can assist with making the necessary arrangements to ensure your wishes and preferences are respected and carried out to benefit the people you care about – particularly those with disabilities.

Take a look at this checklist and the charts to help you prepare and gather some information before you meet with your lawyer to start your family estate planning process. Most lawyers will have their own questionnaire that they will want you to complete when you start to work with them. After completing this worksheet, you will be ready to contact a lawyer of your choice to make a Will. This worksheet does not give any legal advice. To draft a Will, you need to see a qualified lawyer.

Step 1: Gathering your Documents

- ❑ Copies of your most recent Identification: Driver's License or Passport
- ❑ Life Insurance policy or policies: value, policy name, policy number, and type of policy (term, life, joint, last to die, etc.)
- ❑ Financial savings or liabilities (debts): Pension details, RRSPs, TFSAs, RESP and RDSP, other investment statements, mortgage, debts, lines of credit, etc. See the charts on the following pages for more details.
- ❑ Information regarding significant rewards programs: for example, Aeroplan, Scene Point, PC Optimum Points, etc.
- ❑ Deeds and other important ownership documents. See the charts on the following pages for more details.

Step 2: Summary of your Assets and Liabilities

Pension Name	Issuer	Owner	Beneficiary	Amount
Does a beneficiary qualify as a person with a disability? ❑ Yes ❑ No				
RRSP/RRIF/LIRA/LIF	**Company**	**Owner**	**Beneficiary**	**Value**
RESP	**Company**	**Owner**	**Beneficiary**	**Value**
TFSA	**Company**	**Owner**	**Beneficiary**	**Value**

To download a copy of all Worksheets, visit safeandsecurebook.ca and click on *Safe & Secure Worksheets.*

Life Insurance	**Person Insured Owner**	**Beneficiary / Alternate**	**Amount**	**Type policy**
Company: Policy name: Policy #: _____________ (NOTE: You will need to share a copy of the policy sheet with your lawyer)	Person insured: Owner of policy:	Beneficiary: Alternate:		❑ Term ❑ Permanent ❑ Individual ❑ Joint Last to Die ❑ Joint First to Die ❑ Other ❑ Unsure
Company: Policy name: Policy #: _____________ (NOTE: You will need to share a copy of the policy sheet with your lawyer)	Person insured: Owner of policy:	Beneficiary: Alternate:		❑ Term ❑ Permanent ❑ Individual ❑ Joint Last to Die ❑ Joint First to Die ❑ Other ❑ Unsure

Step 3: Other Assets and Liabilities

(Bank accounts, non-registered investment accounts, etc.)

Name	Company	Owner	Beneficiary	Amount/ Value

Step 4: Identifying the Important People

Making an estate plan involves deciding who should deal with your personal affairs when you are gone. The following chart will help you better identify the right person for the role. This is only a guide and to get you thinking about the important people in your life and your family member's life.

	Name	Email	Phone number	Home address	Relationship to me
Potential Executor Person/people who will oversee the administration of your estate					
Potential trustees for trusts This person or people administer(s) funds in the trust					
Potential Beneficiary Person or people receiving your assets					
Potential Guardian Someone who would have custody of your young children when they are under 18, should you and your spouse both pass away					
Potential Attorney for Property Someone to make property decisions (handling finances, choosing investments. etc. on your behalf if you are unable					
Potential Attorney for personal care Someone to decide for you about matters relating to your health care, hygiene, nutrition, safety, shelter and clothing if you are unable					