

RDSPs and Henson Trusts for Canadians with Disabilities



Enabling Canadians,
with RDSPs made easy.

Building financial security for Canadians with disabilities

Canadians with disabilities often face unique financial barriers, due to higher than average medical expenses and, in some cases, employment obstacles. Many may face an uncertain financial future.

The Registered Disability Savings Plan (RDSP) can help Canadians with disabilities and their families build long-term financial security. The RDSP offers the opportunity to build savings through tax-deferred investment growth and generous government benefits.

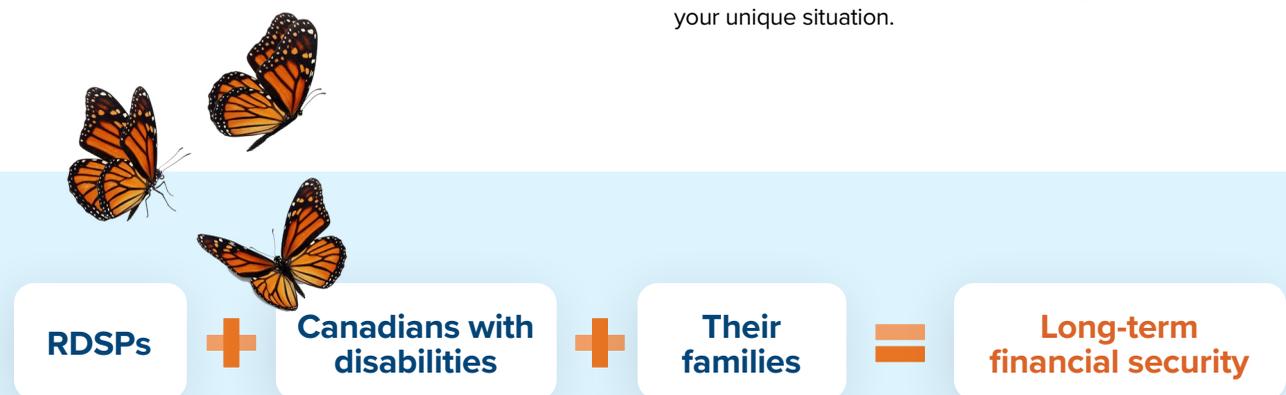
With this in mind, does it make more sense to set up an RDSP, or look at other savings vehicles, such as a Henson Trust? As with many tax-related questions, the answer is: “it depends”.

Several factors must be weighed in determining what best suits an individual’s needs, including:

- Government benefits they may lose or have clawed back.
- The effect on ancillary health benefits.

These factors may have a significant impact, as health benefits include medication, eyeglasses, dentistry, medical appliances and other costly items.

This document will help you navigate the different options and will help you choose the best savings vehicle(s) for your unique situation.



RDSP

An RDSP empowers families to save for the long-term financial security of loved ones with a disability. Generous government benefits provide an added incentive to these tax-deferred savings accounts. **Here is what you need to know about the RDSP program:**

Contributions and withdrawals

- The total lifetime contribution for each beneficiary is \$200,000, with no annual contribution limits.
- Personal contributions may be supplemented by the Canada Disability Savings Grant (CDSG), which is a matching grant with a lifetime maximum of \$70,000.
- Additionally, the Canada Disability Savings Bond (CDSB) is available to qualified low-income beneficiaries, with a lifetime maximum of \$20,000. Up to \$1,000 can be paid annually to the RDSP of a low-income beneficiary even if no contributions are made into the RDSP.
- There are carry-forward provisions for unclaimed grants and bonds.

Most provinces also allow a full exemption of income and/ or assets when calculating provincial benefits. For residents of Québec, New Brunswick or Prince Edward Island the assets are exempt, but there is a limit to how much may be withdrawn from the plan without affecting provincial benefits.

- Québec has a maximum of \$950 per month for an adult beneficiary.
- New Brunswick allows monthly income of \$800, which will be adjusted due to fluctuations in the Low Income Cut-Off (LICO).
- In Prince Edward Island, an individual's income will only be exempt as long as it does not exceed the low-income level defined by the National Council of Welfare.

Did you know?

An important aspect of the RDSP is that payments do not affect income-tested federal programs, including:

- Old Age Security (OAS)
- Guaranteed Income Supplement (GIS)
- Goods and Services Tax Benefit (GST Benefit)
- Social Assistance Benefits

Whether or not social benefit protection is an issue, the RDSP is an option to consider for any Canadian with a disability.



Restrictions on withdrawals

It is important to be aware that when withdrawing any amount from an RDSP, CDSGs and CDSBs received in the previous 10 years must be partially repaid to the government.

- This repayment is known as the Assistance Holdback Amount (AHA) and is designed to ensure the RDSP is used for long-term savings.
- This means for every \$1 withdrawn, \$3 worth of CDSGs or CDSBs must be repaid to the government. This is known as the proportional repayment rule.
- A financial advisor can help track timing to minimize repayments.

Tax deferred rollovers

RDSPs may receive tax-deferred transfers from a Registered Retirement Savings Plan (RRSP), Registered Retirement Income Fund (RRIF) or Registered Pension Plan (RPP), subject to maximum RDSP contribution limits.

- Such transfers must be from an RRSP, RRIF or RPP of a deceased parent or grandparent upon whom the RDSP beneficiary is financially dependent.
- Intergenerational transfers will not attract any CDSG payments. As such, withdrawals may be made immediately following the transfer as long as CDSGs or CDSBs were not deposited to the account in the 10 years prior to the redemption. If the account has received CDSGs or CDSBs in the 10 years prior to the redemption, the proportional repayment rule will apply. Such a withdrawal would be fully taxable to the beneficiary for the amount of the transfer plus applicable Grants and Bonds plus growth but would not be included in federal income-tested benefits.

In cases where the beneficiary of an RESP is the same as the beneficiary of an RDSP it may be possible to transfer the Accumulated Income Payment (AIP) from the RESP to the RDSP on a tax deferred basis. One of the following conditions 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.
- The RESP has been in existence for more than 35 years.

If one of these conditions is met, the AIP can be rolled from the RESP to the RDSP on a tax deferred basis. The 20% penalty that would normally apply when the AIP is withdrawn from an RESP would not apply. The rollover counts against the beneficiary's \$200,000 lifetime contribution limit to the RDSP and is not eligible for CDSG.

Target market

Whether or not social benefit protection is an issue, the RDSP is an option to consider for any Canadian with a disability. As mentioned previously, an RDSP is eligible for CDSGs, which are tied to the beneficiary's age, and family income.

- The beneficiary is eligible for grants and bonds up until December 31st of the year they turn 49.
- If family income is less than \$111,733 for 2024 a 300% match is paid on the first \$500 and a 200% match on the next \$1,000, for a maximum annual CDSG of \$3,500.
- If the family income is over \$111,733 a 100% match is received on the first \$1,000.
- In addition, if the beneficiary's family net income is below \$36,502 for 2024, an RDSP will receive \$1,000 in CDSB, whether or not a contribution to the RDSP is made.
- If the family's net income is between \$36,502 and \$55,867 for 2024, the \$1,000 is reduced on a pro-rated basis in accordance with the formula in the Canada Disability Savings Act.

As a result, regardless of whether an individual receives Social Assistance Benefits, setting up an RDSP will likely be beneficial. This, together with tax-deferred growth can be an attractive option.

A final advantage of the RDSP is that RDSP beneficiaries are able to control their own investments. This is not the case with a Henson Trust, as discussed below.

Fully discretionary trust (Henson Trust)

Before the creation of the RDSP, disability planning frequently used fully discretionary trusts. These are often referred to as “Henson Trusts,” based on the court case that formalized this strategy. A Henson Trust is designed to protect assets, including inheritances, for persons with disabilities. The trustee has absolute and unfettered discretion regarding use of the trust funds, and the beneficiary has no entitlement.

This means that the trustee is in full control in determining when income or capital will be distributed from the trust. Conversely, the beneficiary has no say how or when withdrawals will be made from the Henson Trust. In most provinces this discretionary aspect is key in protecting asset-tested government benefits. **Here is what you need to know about a Henson Trust:**

Contributions and withdrawals

- A Henson Trust can be set up for any person with a disability.
- There is generally no maximum contribution limit.
- The assets in the trust do not affect Social Assistance Benefits the beneficiary may be receiving. However, withdrawals made for non-disability expenses (such as food, clothing, shelter, etc.) are classified as income and may reduce income-tested benefits.

Benefits of using a Henson Trust

- One of the benefits of a Henson Trust is that it can facilitate short-term withdrawals. As mentioned above, withdrawals made from an RDSP within 10 years of funding require the repayment of a portion of the CDSGs and CDSBs. Because a Henson Trust does not qualify for CDSGs or CDSBs, repayment is not a factor, making it a better option for short-term withdrawals. That said, it is important to keep in mind that withdrawals from the Henson Trust could affect a beneficiary’s income-tested benefits.

- Another reason to use a Henson Trust is to control access to funds. This would be desirable in the case of a beneficiary who is not financially competent.
- A third benefit is that if the trust beneficiary has qualified for the Disability Tax Credit (DTC), the trust, under certain circumstances elect to be a “Qualified Disability Trust” (QDT), allowing income generated to be taxed in the trust at graduated tax rates, as opposed to top rate taxation in each province and territory.
- A Henson Trust can provide protection from potential creditors of the beneficiary, including marital creditors.
- A Henson Trust can be used to make contributions and fund an RDSP in order to maximize annual grants that may be available to the RDSP beneficiary.

Intergenerational transfers

- A Henson Trust may make sense if a person with a disability inherits more than \$200,000 from a deceased parent or grandparent’s RRSP/RRIF and RPP.
- A RRIF rollover into an RDSP is limited to \$200,000. Any remaining inheritance must be invested elsewhere. If the remaining amount can be transferred to the trust, the beneficiary may invest all of the inheritance without affecting Social Assistance Benefits.

Estate planning

- A Henson Trust provides the opportunity to name residual or secondary beneficiaries to receive the assets in the trust following the death of the individual with a disability.
- This is not an option with an RDSP, in which case the assets must form part of the beneficiary's estate, either under a will or by way of provincial laws of intestacy (which deal with the estates of individuals who die with no will).

Target market

- A Henson Trust is an excellent estate planning tool when planning for beneficiaries who have a disability.
- As mentioned above, assets held in the trust are not included in the asset test for most provincial benefits and most provinces do not have limits on assets in a testamentary Henson Trust.
- These types of trusts work well for beneficiaries who are not eligible for the Disability Tax Credit and as result not able to open an RDSP.

Side-by-side comparison: RDSP and Henson Trust

	RDSP	Henson Trust
Contribution limit	<ul style="list-style-type: none"> • No annual limit • Lifetime limit of \$200,000 	<ul style="list-style-type: none"> • Generally, there is no maximum amount that can be contributed to a testamentary Henson Trust • Inheritances received directly by the beneficiary are limited by province/territory
Unused contribution room	<ul style="list-style-type: none"> • Only applicable to CDSG and CDSB where unused grants and bonds are carried forward to future years for a maximum of 10 years 	<ul style="list-style-type: none"> • Not applicable
Taxation	<ul style="list-style-type: none"> • Contributions are not tax deductible • Contributions withdrawn are non-taxable. Growth, CDSB, CDSGs and tax deferred rollovers from an RRSP/RRIF/RPP are taxable upon withdrawal. • Withdrawals from an RDSP do not affect income-tested federal government programs 	<ul style="list-style-type: none"> • Contributions are not tax deductible • Withdrawals of contributions are not included in income • Withdrawals of growth and income are considered as income when calculating social assistance benefits
Re-contributions require new contribution room?	<ul style="list-style-type: none"> • Yes 	<ul style="list-style-type: none"> • Not applicable
Age restriction	<ul style="list-style-type: none"> • Contributions can begin at any age • RDSP is eligible for CDSBs & CDSGs until the year the beneficiary turns 49 • Contributions must cease by the end of the year in which the beneficiary reaches age 59 	<ul style="list-style-type: none"> • No age restriction
Eligible investments	<ul style="list-style-type: none"> • Cash, stocks, bonds, Guaranteed Investment Certificates (GICs), mutual funds and a variety of other investments • Mackenzie has more than 60 investment options available for the RDSP 	<ul style="list-style-type: none"> • Cash, stocks, bonds, GICs, mutual funds and a variety of other investments

Provincial tax implications: What you need to know

One of the biggest issues for someone with a disability is the effect that income and assets have on their income-sensitive benefits. Each province is different and below is a synopsis of each.

AB Alberta

Eligibility

Alberta has a program called Assured Income for Severely Handicapped (AISH). To be eligible:

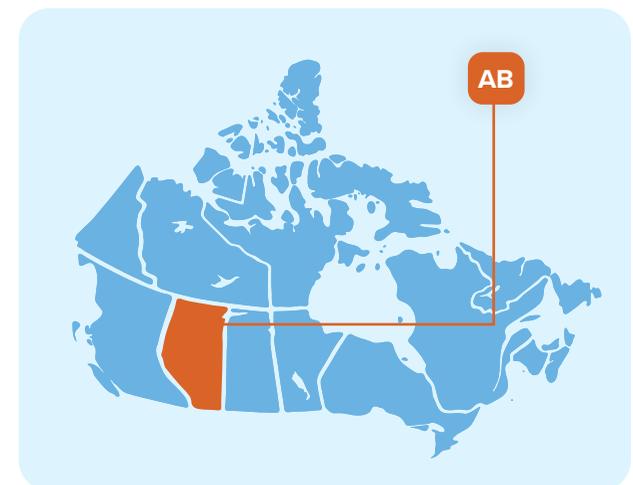
- The individual's disability must be permanent and severely limit their ability to earn a living.
- They must be 18 years of age or older and cannot be eligible to receive Old Age Security (OAS).
- They must be a permanent resident of Alberta.

Income test

- Under the single exemption, the first \$1,072 is fully exempt and any amount above \$1,072, up to \$2,009 is 50% exempt to a maximum exemption of \$1,541.

Asset test

- The non-exempt assets for an individual and their cohabitating partner cannot exceed \$100,000 (unless specifically excluded as an exempt asset. Some examples include the principal residence, a vehicle, a second vehicle adapted for the disability, clothing and reasonable household items).
- In order to be considered for the AISH program an individual must apply for all other income benefits for which they are eligible.
- RDSP assets are exempt.



Did you know?

A Henson Trust is recognized in most jurisdictions except the Northwest Territories and Nunavut.

In Saskatchewan it may be challenged by the government on the grounds of dependent relief legislation, although there have been no cases yet.

In Newfoundland and Labrador, Social Assistance Benefits will be reduced if the trust's assets exceed \$100,000.

BC British Columbia

Eligibility

BC has the Employment and Assistance for Persons with Disabilities program. To be eligible:

- The individual must have a severe physical or mental impairment that is expected to continue for at least two years.
- The impairment must significantly restrict their ability to perform daily living activities and require assistance from another person, an assistive device or an assistance animal.
- They must be 18 years of age or older.

Income test

- Earnings of \$19,400 per year per family unit with two adults (one with Persons with Disabilities [PWD] designation).
- Earnings of \$32,400 per year per family unit with two adults (both with PWD designation).
- Earnings of \$16,200 per year allowed for single claimants.

Asset test

- A single person cannot have assets of more than \$100,000 to ensure their PWD funding is not affected.
- If you are a couple and both adults are PWDs, your exemption is \$200,000.

The following assets are exempt:

- Principal residence.
- Vehicle.
- Clothing and necessary household equipment.
- RDSP.
- Prepaid funeral.
- Uncashed life insurance policy with cash surrender value of \$1,500 or less.
- Assets held in a qualifying trust, with a limit of \$200,000 for a non-discretionary trust. No limit for a discretionary trust.

MB Manitoba

Eligibility

Manitoba has the Employment and Income Assistance Program (EIA). To be eligible:

- The individual must have a mental or physical disability that is likely to last more than 90 days and keeps the individual from earning enough money to pay for their family's basic needs.
- They must live in Manitoba.
- They must be 18 years of age or older.

Income test

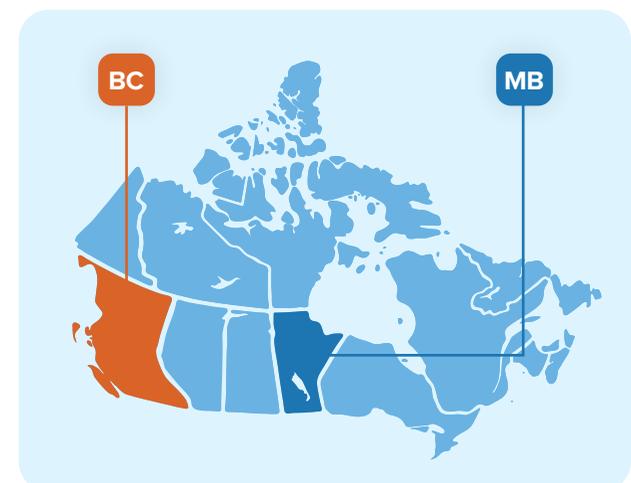
- Net monthly earnings of up to \$200 plus 30% above before EIA benefits reduced.
- Occasional gifts of \$100 per person are permitted.

Asset test

- Liquid assets of \$4,000 per person to a maximum of \$16,000 per family are permitted.

The following items are also exempt:

- Primary residence.
- Automobiles.
- Other essential property.
- Children's trust funds up to \$40,000.
- Registered Education Savings Plans (RESPs).
- Approved Individual Development Accounts.
- EIA Disability Trust Funds.
- RDSPs.



NB New Brunswick

Eligibility

New Brunswick offers the Disability Support Program for individuals with a long-term disability. To be eligible:

- They must require disability-related supports in order to address unmet needs to establish or maintain their living arrangement or assist those helping them to do so.
- They must be aged 19 to 64 years and a resident of New Brunswick.

Income test

- Single claimants: \$500 fixed portion + 50% of remainder of earnings.
- Two people (one or both disabled): \$500 fixed portion + 50% of remainder of earnings.

Asset test

- Liquid assets of less than \$10,000 for the household are permitted.
- Individuals are able to have trust funds and accumulated interest up to \$200,000.
- RRSP assets up to \$50,000.
- RESPs for children.

NL Newfoundland and Labrador

Eligibility

Newfoundland and Labrador offer income support. To be eligible:

- The individual's assessed need for income support is determined to be greater than their income and assets.
- They must be a resident of Newfoundland or Labrador.
- They must be 18 years of age or older.

Income test

Determining whether an individual is eligible for income support will depend on their needs versus their resources. The following items will be evaluated:

- Family income and other resources.
- The number of adults and children in the family.
- The living accommodations.
- The types of benefits you may need.
- Employment related expenses you or your spouse may have.

Asset test

- To be eligible, persons with disabilities cannot have liquid assets greater than \$6,000 or \$11,000 for two or more persons.
- RDSPs, RESPs and locked in plans are exempt for both assets and income up to \$10,000 in an RRSP.
- Any amounts held in a support trust are exempt.
- RRSPs up to \$20,000 are exempt.



NT Northwest Territories

Northwest Territories has challenged Henson Trusts and may not permit them.

Eligibility

- Northwest Territories offers the Disability Allowance for Persons with Disabilities on Income Support. In order to qualify for the Disability Allowance, an individual must be receiving income assistance, be at least 19 years of age, and be a Northern resident.
- The individual must also have a physical or mental impairment that is permanent or recurrent and expected to last one year or more and provides a substantial barrier to employment.

Income test

- An individual is not permitted to earn more than \$200 per month if they are single or \$400 per month if they have a family plus 15% of earned income above these limits.
- \$1,200 of annual unearned income.

Asset test

- To be eligible, persons with disabilities cannot have assets greater than \$50,000.
- A maximum of \$300 held in a bank plus \$100 for each dependent adult and \$80 for each dependent child.
- RDSPs are excluded from asset and income limits.

NS Nova Scotia

Eligibility

Nova Scotia offers the Direct Family Support (DFS) program. To be eligible, the individual must have one or more of the following:

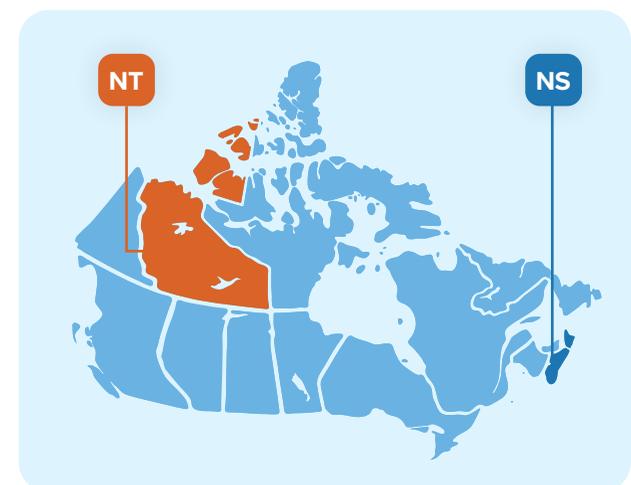
- Intellectual disability.
- Long-term mental illness.
- Physical disability.
- They must be a permanent resident of Nova Scotia and be at least 19 years of age.
- The individual and family must have unmet needs as identified through the assessment process.

Income test

- The Disability Support Program provides a standard rate of \$950 to \$1,393 if you own or rent your home. Additional benefits may be available depending on your case.
- Payments from an RDSP are exempt.

Asset test

- The maximum allowable asset level is \$2,000 for a family size of one person and \$4,000 for a family size of more than one.
- Locked in retirement accounts and RDSP are exempt assets.



NV Nunavut

Nunavut has challenged Henson Trusts and may not permit them.

Eligibility

Nunavut has an income support program that consists of basic benefits and extended benefits.

- The basic benefits cover the cost of food, shelter, utilities, fuel, room and board.
- The extended benefits are available to persons with disabilities and provide allowances for clothing, furnishings, security deposits, emergencies, daycare and incidental allowance, expenses incidental to education and training.

Income test

An individual cannot have monthly earnings of more than:

- \$200 + 50% of next \$600 per month for a single person.
- \$400 + 50% of next \$600 per month for a family.

Asset test

- To be eligible, persons with disabilities cannot have assets in excess of \$5,000.
- RDSP assets and income are fully exempt from receiving benefits.

ON Ontario

Eligibility

Ontario has the Ontario Disability Support Program (ODSP). To be eligible an individual must:

- Be at least 18 years old.
- Be an Ontario resident.
- Be in financial need.
- Meet the program's definition of a person with a disability.

Income test

- First \$1,000 of monthly earnings will not reduce income support.
- Up to \$10,000 in a 12-month period, in the form of gifts or voluntary payments for any purpose, from any source.
- RDSP income is exempt.

Asset test

The maximum allowable assets are \$40,000 for an individual, \$50,000 for a couple and \$500 for each dependent other than a spouse.

The following assets are exempt from this test:

- Principal residence.
- Primary vehicle.
- Fully discretionary trusts derived from an inheritance or life insurance policy, up to the allowable limit.
- Prepaid funerals.
- Necessary household and personal items, such as furniture and clothing.
- RESPs.
- RDSPs.



PE Prince Edward Island

Eligibility

Prince Edward Island has the AccessAbility Supports Program. To be eligible, the individual must be under 65 at the time of the application, be a resident of PEI and have a disability.

Income test

- For a single person the income exemption is 100% of the first \$250 per month plus 30% of the balance of net earned income.
- For any applicant who lives with their spouse or dependents, it is 100% of the first \$400 plus 30% of the balance of net earned income.

Asset test

- If the beneficiary is single without dependents the maximum liquid assets they can have are \$5000.
- If the beneficiary has dependents they can have liquid assets of \$6,000 plus \$500 per dependent to a maximum of \$8,500.
- If the beneficiary is a couple they can have liquid assets of \$10,000, if they have dependents they can have an additional \$500 per dependent to a maximum of \$12,500.
- Assets and income received from an RESP and/or an RDSP are exempt.

QC Québec

Eligibility

Québec offers the Financial Assistance for Domestic Help Services. This program is available to:

- Permanent or temporary residents of Québec who are eligible for the program through the Health Insurance Act.
- They must be at least 18 years of age.

Income test

- The maximum that can be withdrawn from an RDSP is \$950 per month for an adult.
- The first \$200 of work income is exempt for individuals and \$300 for couples.

Asset test

- To be eligible, a single person with disabilities cannot have liquid assets greater than \$1,500 and a family cannot have more than \$2,500.



SK Saskatchewan

Eligibility

- Saskatchewan offers the Saskatchewan Assistance Program (SAP), which is available to residents who are at least 18 years old and have a significant and enduring disability.

Income test

- The income test for a single is \$6,000 a year. For a couple it's \$7,200 a year.

Asset test

- To be eligible, persons with disabilities cannot have liquid assets greater than \$1,500 for one person, \$3,000 for two people per family and \$500 for each additional family member.
- RDSPs are exempt for both asset and income tests.

YT Yukon

Eligibility

- The Yukon offers the Yukon Social Assistance program to individuals who have needs that are greater than their resources. This program is available to individuals with disabilities in addition to other individuals in the Yukon.
- The Yukon Supplementary Allowance is available to individuals who are at least 19 years of age and who are assessed to be unemployable by reason of a severe and prolonged disability.
- These individuals will receive an allowance of \$250 per month, which is not included as income.

Income test

- \$3,900 a year for individuals - N/A for couples.

Asset test

- To be eligible, persons with disabilities cannot have liquid assets greater than \$2,000, or \$3,500 for family units of two or more people.
- RDSPs are exempt for both assets and income tests.





Peace of mind starts with a conversation

Speak with a financial advisor to help you navigate through the various options and help determine the best fit for you. For more information on RDSP plans and detailed information please visit us at mackenzieinvestments.com/RDSP.

General inquiries

For all of your general inquiries and account information please call:

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Bilingual: 1-800-387-0615

Asian Investor Services: 1-888-465-1668

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