

Registered Retirement Savings Plan (RSP) Some Frequently Asked Questions

Can you make an RSP contribution for a minor?

Darren's son, George, age 15, worked last summer and has earned income of \$5,000. Darren wonders if it is worthwhile setting up an RSP for George and whether he would be able to open an RSP account for George with his own broker.

There is no legal requirement that the plan annuitant of an RSP cannot be a minor. However, unless a child actually has earned income and therefore RSP deduction room, it is not advisable to set up an RSP for the child, because the \$2,000 over-contribution allowance does not apply for a person who has not attained the age of 18. As a result, any amount contributed to a plan of which the plan holder is a minor who does not have unused RSP deduction room would result in an over-contribution penalty of 1% per month.

If, on the other hand, a child does have earned income for RSP purposes (e.g. from part-time or summer work), it may be advantageous to make RSP contributions for the child so that he or she can start enjoying tax-free compounding of the investments as early as possible. In addition, even if the child's income is below the basic personal credit amount and there is no need to take any RSP deduction, by filing a tax return for the child, you have created RSP contribution room for the child and, if contributions are made to the child's RSP but not immediately deducted, the deduction may be carried forward indefinitely to be used in a future year to reduce taxable income.

It should be noted that most retail bank branches will probably open an RSP for a minor, but not investment brokerages. The reason for this has to do with the need for legal capacity when entering into a contract.

What is the best time to make your RSP contribution and take your RSP deduction?

Joyce's employment income last year was \$50,000. She expects her salary to be \$75,000 this year and \$100,000 next year. She also has unused RSP room of \$20,000. She is wondering when the best time to make her RSP contribution is.

The best time to make your RSP contribution is "the sooner the better"; to take full advantage of the tax deferred compounding of your RSP investments.

However, there is no rule that requires you to take the RSP deduction in the year that a contribution is made. You can deduct your RSP contribution in the year of contribution or in any subsequent year. Thus, if you are in a low tax bracket in the current year but expect your taxable income in future years to be much higher, and you have the cash and the RSP contribution room, consider contributing to your RSP now but delay claiming the RSP deduction until subsequent years when you are in a higher tax bracket.

What is meant by the "forgotten RSP contribution"?

Jordon Smith turns 71 this year and is unhappy about having to wind up his RSP at the end of the year, since he is still working and will have \$80,000 of employment income this year. He has no RSP carry forward room and he has no spouse. What can you advise Jordon regarding his RSP contribution for next year?



Since Jordon has earned income in the year he turns 71, he should consider making a contribution for the next year (in addition to the one made for the current year) just before year end. Even though Jordon is required to collapse his RSP before the end of this year, he can still deduct the excess RSP contribution in subsequent years. He will of course be subject to a penalty tax for each month of over-contribution; but if he makes his RSP contribution for the next year in December of this year, he will only be subject to the penalty tax for one month, which will be offset by the tax savings from the contribution.

For example: based on Jordon's earned income, he will be able to contribute \$14,400 (i.e. 18% of \$80,000) next year, however he will not have an RSP to contribute to, since he is required to convert the RSP to a RIF before the end of this year. Assuming Jordon has not used any part of his \$2,000 over contribution, by putting in the \$14,400 in December of this year, Jordon will be subject to a penalty of \$124, being 1% of (\$14,400 - \$2,000). However, he will be able to claim an RSP deduction of \$14,400 next year.

Can you make contributions to your spouse or common law partner's RSP if you are older than 71 years of age?

In the preceding scenario, would things be different if Jordon was married to Ali (age 50), instead of being single?

Yes. Although at the end of the year in which Jordon reaches age 71 he will be required to collapse his RSP, he can still make RSP contributions to a spousal RSP so long as he has RSP contribution room (either through carry forwards or because he continues to generate earned income). Thus, Jordon can make RSP contributions to a spousal RSP for Ali after the year in which he turns 71, as long as Ali is less than 71 years old. Also, Jordon will continue to get the tax deductions for the spousal RSP contributions.

When can a spousal RSP designation be removed?

CRA permits an RSP issuer to remove the contributor information from a spousal RSP if the contributor and annuitant's marriage breaks down, provided that the conditions outlined below are met. This also applies to common law relationships.

Condition 1: Proof of separation caused by the breakdown

At the time of the request to remove the spousal designation, the annuitant and contributor must be living apart because their marriage has broken down. The RSP issuer will require a written statement, signed and dated by the annuitant, stating that he or she is no longer living with the person who is identified as the contributor because of the breakdown. If documentary evidence of the breakdown exists (for example, a separation agreement or divorce decree), the issuer may also ask for a copy of the document. These documents do not have to be filed with CRA but the issuer would keep a copy of these documents for their own records.

Condition 2: No contributions

The annuitant's written statement should certify that the spouse or former spouse did not contribute to any of the annuitant's RSPs (held with any issuer) in the calendar year of the request to remove the spousal designation or in the two immediately preceding calendar years.

Condition 3: No withdrawals

The annuitant's written statement should also certify that he or she did not make any withdrawals from the RSP in the year of the request. (In the case of a RIF, that he or she withdrew no more than the minimum amount from the RIF.)

When these three conditions are met, the RSP issuer may remove the contributor information from the Partner's RSP or RIF, or alternatively, transfer the property to a new or existing individual RSP or RIF in the annuitant's name which does not include any information about a contributor who is not the annuitant.

What happens to an RSP upon divorce?

Generally, funds may not be transferred from the RSP of one spouse to the RSP of the other. However, the Income Tax Act permits a tax-free transfer of an RSP from one spouse to another as a division of property in a "settlement of property or support rights" in a marriage breakdown. This also applies to common-law partners. The required conditions are:

- The spouses (or ex-spouses) are living apart at the time of the transfer;
- The transfer is made under a written separation agreement or under a decree, order or judgment of a court; and
- The transfer is made to settle rights arising out of the marriage or on the breakdown of the marriage.

The transfer is done via Form T2220 *“Transfer from an RRSP or a RRIF to Another RRSP or RRIF on Marriage Breakdown or Common-law Partnership”*.

Can RSP contributions be made on behalf of an individual after his or her death?

No. However, the deceased individual's legal representative can make contributions to the surviving Partner's RSP in the year of the individual's death or during the first 60 days after the end of that year, up to the individual's RSP deduction limit for that year, provided of course that the surviving spouse or common law partner is less than 72 years old.

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