Wealth Management

the Navigator

INVESTMENT, TAX AND LIFESTYLE PERSPECTIVES FROM RBC FAMILY OFFICE SERVICES

Withdrawing from an RESP

Withdrawing from the plan and non-resident issues

Please contact us for more information about the topics discussed in this article.

If you've established a registered education savings plan (RESP), you may now be wondering how you can access the funds in the plan. This article explores the different types of RESP withdrawals. It also discusses the issues that may arise if the subscribers and/or beneficiaries of the RESP are non-residents of Canada.

Any reference to a spouse in this article also includes a common-law partner.

RESP withdrawals

If you've been contributing to an RESP for several years, the plan may have accumulated a combination of your contributions, Canada Education Savings Grants (CESGs), Canada Learning Bonds (CLBs), provincial government incentives and investment income and growth.

If you're thinking about accessing the funds in the RESP, perhaps because a plan beneficiary is enrolled in post-secondary education, you should understand the different types of withdrawals that are available. The timing, nature and ordering of the withdrawals are important.

The following are several types of RESP withdrawals that are available:

- Refund of contributions to you, the subscriber, or to the RESP beneficiary;
- Educational assistance payments (EAPs) to the beneficiary;
- Accumulated income payments (AIPs) to the subscriber; and
- Payment to a designated educational institution (DEI) in Canada.

Refund of contributions

Subject to the terms and conditions of the RESP, you, as the subscriber, can withdraw the contributions made into the RESP at any time. You can receive them yourself or you can redirect them to the plan beneficiary.

The timing of your withdrawal is important. If no beneficiary of the plan is eligible to receive an EAP at the time of withdrawal and there's remaining CESG in the RESP, a withdrawal of contributions from the RESP may trigger a CESG repayment to the government. Payments received under some of the designated provincial plans may also have to be repaid to the provincial government when there's a refund of contributions.

Please note that if you make a withdrawal to correct an over-contribution that's less than $4,000, you will not trigger a repayment of the CESG.

A refund of contributions may not exceed the total RESP plan value net of the CESG, CLB and the designated provincial program incentives that have been paid into the RESP, while also considering any losses realized within the RESP.

If the RESP incurred losses, the losses may reduce the amount of contributions you can withdraw. Losses will first be applied against the investment income earned within the plan, then the principal contributed. If both of these sources are exhausted, the remaining losses may then be applied against the government incentives if you have any remaining in the plan. For example, consider an account that has received $10,000 in contributions and $2,000 in CESG over five years. If in year six, the value of the RESP is $15,000, then $3,000 is considered to be income and the full $10,000 in contributions can be withdrawn. If in year seven, the value of the plan dropped in value to $9,000 because of a downturn in the market, the RESP would be considered to hold $2,000 in CESG, $0 in income and $7,000 in contributions ($9,000 – $2,000). Only $7,000 would be available as a refund of contributions at that time, despite the RESP having received $10,000 in contributions originally.

When contributions are removed from a plan, they're removed in the following order:

1. Assisted contributions that were made in 1998 and after (contributions that have attracted CESG);
2. Unassisted contributions made after 1997 (contributions that did not receive the CESG);
3. Unassisted contributions made prior to 1998 (contributions made when the CESG program did not exist).

Tax impact of receiving a refund of contributions

Since you made your original contributions with after-tax dollars, you will not pay tax when you withdraw these funds. You will not receive any tax slips and you should not report these amounts as income on your or your beneficiary's tax return. There are no tax consequences to you when CESG or other incentives are returned to the government.

Educational assistance payments (EAPs)

An EAP is a taxable amount paid to a beneficiary from an RESP to help finance the cost of post-secondary education.

> EAPs can be paid to a plan beneficiary who is enrolled in a qualifying educational program or in a specified educational program and is 16 years of age or older.

EAP payments may be made of:

- Accumulated investment income;
- CESG;
- CLB; and/or
- Other provincial incentives.

EAPs can be paid to a plan beneficiary who is enrolled in a qualifying educational program or in a specified educational program and is 16 years of age or older.

In order to receive CESG or CLB as part of an EAP, the beneficiary must be a resident of Canada at the time they receive the EAP. Residency requirements for receiving other provincial program incentives vary by province. The details of these requirements are beyond the scope of this article.

While the beneficiary is enrolled in a qualifying or specified educational program, it's generally advisable for the beneficiary to receive an EAP before receiving a refund of contributions, because if government incentives and income remain in an RESP after the beneficiaries have completed school, there may be negative consequences when the RESP is wound up. The unused government incentives may have to be returned to the government and the unused income may be heavily taxed when withdrawn. This will be discussed in more detail later in the section on AIPs.

That being said, an RESP beneficiary is entitled to receive EAPs for up to six months after ceasing to be enrolled in a qualifying educational program or specified educational program, as long as the payment would have qualified under the rules for EAPs if it had been made immediately before the student's enrolment ceased. As such, it's important to pay attention to the timing of withdrawal requests.

Qualifying educational program and specified educational program

A qualifying educational program is an educational program at the post-secondary school level that lasts at least three consecutive weeks and requires a student to spend no fewer than 10 hours per week on courses or work in the program.

A specified educational program is a program at the post-secondary level that lasts at least three consecutive weeks and requires a student to spend no fewer than 12 hours per month on courses in the program.

Post-secondary educational institutions include:

- A university, college or other designated educational institution in Canada;
- An educational institution in Canada certified by Employment and Social Development Canada (ESDC) as offering non-credit courses that improve or develop skills in an occupation;
- A foreign university that has courses at the post-secondary school level at which the beneficiary was enrolled on a full-time basis in a course of not less than three consecutive weeks; and
- A foreign university, college or other educational institution that has courses at the post-secondary school level at which a beneficiary was enrolled in a course of not less than 13 consecutive weeks.

Proof of enrolment

In order to receive an EAP, a beneficiary of an RESP must provide appropriate proof of enrolment. You may be required to provide a letter of confirmation from the registrar's office or confirmation of enrolment on the institution's letterhead or a verification of enrolment form provided by Canadian universities and colleges. Please check with your RESP provider to see what they will accept as proof of enrolment. The beneficiary may also need to provide details such as the type of institution, the length of the program in weeks, the number of weeks of study per year, the current year of study and the course start date.

Payment amounts

For RESPs established or modified after 1998, the beneficiary can withdraw an EAP of up to $5,000 during the first 13 consecutive weeks of enrolment in a qualifying educational program. After the first 13 weeks, which for many students is their first term, the $5,000 restriction on EAP withdrawals is removed. However, if there is a 12-month period in which the plan beneficiary is not enrolled in a qualifying educational program for 13 consecutive weeks, the $5,000 withdrawal limit will apply again upon their return to school.

For studies in a specified educational program, the maximum EAP is $2,500 for the 13-week period of enrolment in part-time studies preceding the payment of an EAP. There are no limits on plans that were established prior to 1989 and not modified after 1998.

These limits apply across all plans held with the same RESP provider. However, these limits are applied separately for plans held with different providers, so there may be the opportunity to access additional EAP amounts if you hold plans with different providers.

> For RESPs established or modified after 1998, the beneficiary can withdraw an EAP of up to $5,000 in the first 13 consecutive weeks in a qualifying educational program.

After the first 13 weeks, the amount withdrawn must be "reasonable" to fund the educational needs of the beneficiary. For administrative ease, the CRA does not expect RESP providers to assess the reasonableness of each expense item, as long as the conditions permitting an EAP are met and the request is below $26,860 (2023 threshold, indexed annually). As such, you will generally not have to show what the funds will be used for.

When the RESP provider receives a request for an EAP, they review the request along with the proof of enrolment. The RESP provider will use a prescribed formula to determine the portions of CESG, other government incentives and income that form the EAP. You and the RESP provider will not be able to specify which amounts are taken out first.

What if the EAP isn't enough?

In situations where the beneficiary's educational costs exceed the limit for the first 13 weeks of enrolment, there are several options available to you, including:

- Wait until the 13 weeks have passed;
- Withdraw some of the contributions and allocate them to the beneficiary, provided the beneficiary is enrolled in a qualified or specified educational program at the time of the withdrawal; or
- Where the beneficiary's post-secondary tuition costs are substantially higher than average, you may be able request an increase to the EAP limit. Higher EAP limits are granted on a case-by-case basis by the Minister of Employment and Social Development.

Taxation of EAPs

The EAP is taxable to the beneficiary as income. The investment income that's paid to the beneficiary does not retain its character (e.g. dividends, interest and capital gains). Although fully taxable, keep in mind that many students pay very little, if any, income tax since they are likely entitled to tuition tax credits in addition to their basic personal exemption and they may have earned little to no other income.

Non-resident beneficiaries will be subject to non-resident withholding tax on the EAPs they receive. They should speak with a qualified tax advisor in their country of residence to determine if there are additional tax obligations of receiving the EAP.

Accumulated income payments (AIPs)

An AIP is an amount that may be paid to you, the subscriber, if there's income earned on contributions and incentives within the RESP that has not been used by a qualifying beneficiary. You must be a resident of Canada in order to receive an AIP. Further, one of the following three conditions must be met:

- The current beneficiary and all past beneficiaries have reached age 21, none of them are eligible for an EAP and the plan has been open for at least 10 years;
- The plan has reached its termination date, being December 31 of the year that includes the 35th anniversary of the plan. In the case of a specified plan, where the beneficiary is entitled to the disability tax credit (DTC), the relevant date is December 31 of the year that includes the 40th anniversary of the plan; or
- All the beneficiaries of the RESP have passed away.

If the original subscriber passes away before one of the above events occur, the AIP can be paid to the successor subscriber, if there is one, who is resident in Canada.

Once you receive an AIP, you must close the RESP by the end of February of the year following your first AIP withdrawal. If there are any funds remaining in the RESP after this time, the funds will be transferred to the DEI you identified in your RESP application form.

CESG, CLB or other provincial incentives remaining in the RESP may have to be repaid to the government when an AIP is made. Any contributions can be returned to the subscriber on a tax-free basis.

Taxation of AIPs

Tax is generally withheld on AIPs. However, the withholding tax may not be your final tax liability. The withholding acts as a credit towards your taxes payable for the year. An AIP is taxable as income at your marginal tax rate plus an additional 20% tax (12% for residents of Quebec).

The total tax bill is not quite as onerous as it may sound. This is because the funds in the RESP have been benefiting from tax-deferred growth throughout the lifetime of the plan. Consequently, the investments that have been made in the RESP have probably grown more than they would if they had not been in a tax-sheltered environment.

You may be able to eliminate all or a portion of the penalty and defer the taxes on the AIP by transferring the AIP to your registered retirement savings plan (RRSP). It may also be possible to transfer the AIP to a registered disability savings plan (RDSP) for the benefit of the RESP beneficiary to avoid the penalty. The AIP is not subject to withholding tax if it's transferred to an RRSP or RDSP.

> An AIP is an amount that may be paid to you, the subscriber, if there's income earned on contributions and incentives within the RESP that has not been used by a qualifying beneficiary.

Transferring the AIP to your RRSP

You can transfer a maximum amount of $50,000 of AIPs on a tax-deferred basis to your RRSP or to a spousal RRSP if you have adequate unused RRSP contribution room to make this transfer. If you and your spouse are joint subscribers, each of you can transfer a maximum of $50,000 to your RRSPs, assuming you each have the required contribution room. Note that only spouses can be joint subscribers to an RESP.

If you make a tax-deferred transfer to your RRSP, you must do so in the year you receive the AIP or within 60 days of the calendar year-end. You can no longer hold an RRSP after December 31 of the year in which you reach age 71. So, if you wish to transfer some or all of your AIP to your RRSP, you must do so before this time.

You will only be able to benefit from this tax-deferred treatment if you are the original subscriber, you acquired the former subscriber's rights as a consequence of marriage breakdown or you are the spouse of a deceased original subscriber. For example, if you become the subscriber of an RESP on your brother's passing, you would not be able to reduce the amount of AIP that's subject to tax by making a tax-deferred transfer to your RRSP.

When you transfer an AIP to an RRSP, you must report the AIP as income on your personal tax return in the year you receive it. You will also receive an RRSP contribution receipt and be able to claim a deduction to offset the income inclusion.

Transfer of an RESP to an RDSP

An AIP may be transferred to an RDSP if the RESP beneficiary is also the RDSP beneficiary. The beneficiary must meet the existing age and residency requirements for RDSP contributions and one of the three following requirements must also be met:

- The beneficiary is, or will be, unable to pursue post-secondary education because of a severe and prolonged mental impairment;
- The RESP has been in existence for at least 35 years; or
- The RESP has been in existence for at least 10 years and the beneficiary of the plan has attained 21 years of age and is not eligible to receive EAPs.

If the AIP is transferred to an RDSP, it will not be subject to regular income tax or the additional 20% penalty. No tax slips will be issued.

The amount transferred from the RESP to an RDSP will reduce the beneficiary's RDSP lifetime contribution limit. A beneficiary has a lifetime RDSP contribution limit of $200,000. Amounts transferred from an RESP to an RDSP will not attract RDSP grant.

Payment to a DEI

In the event that your RESP has to be collapsed while investment income remains in the plan, no beneficiary qualifies for an EAP and no subscriber qualifies for an AIP, the remaining income may be paid to the DEI you identified in your RESP application form, if the RESP provider allows for such payments.

A DEI must be located in Canada and be a university, college or other educational institution designated by the Lieutenant Governor in Council of a province as a specified educational institution under the Canada Student Loans Act; or designated by an appropriate authority under the Canada Student Financial Assistance Act; or designated by Quebec's Minister of Education as per Quebec's Act respecting financial assistance for educational purposes.

Taxation of payments made to a DEI

If a payment is made from the RESP to a DEI, there are no tax consequences to you or the plan beneficiary. This type of payment is not eligible for a charitable donation tax credit.

Closing an RESP

35-year limit

An RESP must be closed by December 31 of the year that includes the 35th anniversary of the opening of the plan (40th year for a specified plan), even if a beneficiary of the plan is still pursuing post-secondary education.

Plan closed at your request

You may choose to close your RESP if your beneficiary is not attending a post-secondary school or if the plan beneficiary has passed away.

Alternatively, if your RESP is a family plan, you may choose to add another beneficiary who would be able to benefit from the plan and keep the plan open under certain circumstances. You may also be able to name a replacement beneficiary on an existing individual plan.

Withdrawing the remaining funds

If there are amounts remaining in the RESP at the time of closing, you may be able to withdraw all or part of the funds. The nature of the remaining funds in the plan will determine the manner in which they will be paid out when you close your RESP.

A beneficiary of an RESP must be a resident of Canada at the time contributions are made to the plan. If the beneficiary becomes a non-resident after the contributions have been made to the plan, they may not be able to benefit from all of the funds that have accumulated in an RESP.

- **Contributions:** You or the plan beneficiary can receive a refund of contributions on a tax-free basis.
- **Government incentives:** Any amounts originating from government incentives (e.g. CESG, CLB, provincial incentives) may have to be repaid to the government.
- **Investment income:** You may be able to withdraw the investment income as an AIP, otherwise, the income may be paid to a DEI, if the RESP provider allows for such payments.

Non-residents

Non-resident beneficiary

It's important to determine the beneficiary's residency status for tax purposes when establishing an RESP or making an RESP withdrawal. When determining residency, you should be aware that a beneficiary can study outside of Canada and still be considered a Canadian resident for tax purposes.

A beneficiary of an RESP must be a resident of Canada at the time contributions are made to the plan. If the beneficiary becomes a non-resident after the contributions have been made to the plan, they may not be able to benefit from all of the funds that have accumulated in an RESP.

As with resident beneficiaries, you or the beneficiaries of the plan can receive the original contributions as a refund of contributions at any time.

Non-resident beneficiaries cannot receive payments of CESG, CLB or some provincial program incentives. If the beneficiary is a non-resident at the time they attend a post-secondary educational institution and remain a non-resident at the time the plan is terminated, these amounts will need to be returned to the government.

If a non-resident beneficiary who is enrolled in a qualifying program requests an EAP, the EAP they receive will only be made up of investment income earned in the RESP and possibly some provincial incentives. The EAP will be subject to non-resident withholding tax of 25%, unless reduced by a tax treaty.

In addition, the tax rules in the beneficiary's country of residence may apply to the RESP. The beneficiary should obtain qualified tax advice in the country where they live to ensure they understand any potential tax consequences of being a beneficiary of an RESP.

Non-resident subscriber

An RESP can remain open even if you, as the subscriber, are a non-resident of Canada, but there may be Canadian tax implications if you decide to close the plan.

You can withdraw the capital you contributed to the plan as a tax-free return of contributions at any time or you can direct that payment to the beneficiary. You will not be eligible to receive AIPs. The investment income that has accumulated in the plan may need to be paid out to a DEI when you close the plan as a non-resident.

The RESP may contain some CESG, CLB and designated provincial program incentives; these amounts must be returned to ESDC and the applicable provincial government if you close the plan while you're a non-resident of Canada.

If you're a resident of another country, there may be tax implications in the country where you live. Be sure to obtain the advice of a qualified tax advisor in your country of residence to understand any tax implications of being a subscriber of an RESP in Canada.

Conclusion

There are many things to consider when withdrawing funds from an RESP. The needs of the beneficiaries along with the tax implications that may apply to the subscriber and the beneficiaries must be considered. Speak with a qualified tax advisor to ensure you've taken into account your circumstances before making a withdrawal from your RESP.

This article may contain strategies, not all of which will apply to your particular financial circumstances. The information in this article is not intended to provide legal, tax or insurance advice. To ensure that your own circumstances have been properly considered and that action is taken based on the latest information available, you should obtain professional advice from a qualified tax, legal and/or insurance advisor before acting on any of the information in this article.

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