Sun Life

Planning for someone with a disability

Planning for someone with a disability involves both tax and non-tax considerations. Many individuals focus on protecting or maintaining provincial/territorial government income support benefits. However, there is more to it than simply protecting a monthly income supplement. Building a plan starts with understanding current support and continuing needs. These programs can include both monetary and non-monetary support. Planning also includes reviewing support from family or friends. Building a robust plan may involve protecting, supplementing, or replacing one or more of the available supports.

Government support

Government support can include specific tax measures to reduce taxes or provide income support. Not all measures are accessible by all people with a disability. Some require assessment by an outside party (e.g. medical practitioner) or government department (e.g. provincial/territorial support programs).

Federal tax measures

The main Federal tax measures available include:

- **Disability tax credit** (**DTC**). The DTC is a non-refundable tax credit. If eligible, you claim it on your tax return to reduce the amount of taxes you pay. The credit is equal to 15% multiplied an annual amount set by the Federal government. The credit also includes a supplement for those under 18 at the end of the year. Provinces and territories also provide a tax credit, although thresholds and tax rates vary. Under certain conditions, you can transfer it to your spouse/common-law partner or to someone on whom you are dependent.

  To be eligible for the DTC, you must have a severe and prolonged mental or physical impairment. Your medical practitioner certifies the impairment on a Canada Revenue Agency (CRA) Form 2201 – Disability Tax Credit Certificate. Although the DTC helps reduce your taxes, it's also the precursor for eligibility in many other support tools discussed below. Therefore, qualifying for the DTC may open more planning opportunities.

- **Medical expense tax credit** (**METC**). The METC is also a non-refundable tax credit you can claim on your tax return. The credit is equal to 15% multiplied by eligible medical expenses that exceed a certain threshold. The threshold is based on the lesser of 3% of your net income and a CRA prescribed amount that increases annually. The CRA maintains a list of eligible expenses and thresholds. Provinces and territories also provide a version of the METC, although thresholds, conditions, and tax rates vary.

  Although not exclusive to someone with a disability, the METC may be more relevant depending on needs. Someone with a disability has a higher likelihood of increased expenses eligible under the METC. You can pool eligible family expenses over a 12-month period. These include expenses for you, your spouse/common-law partner, and minor children/dependants. Many people may not be maximizing the use of this credit because it requires careful planning. We recommend you keep all receipts and paperwork that may allow you to maximize your use of the METC.

- **Disability supports deduction**. The disability supports deduction allows you to claim eligible expenses that remove barriers for someone with a disability. Expenses include those allowing you to work, go to school, or do research for which you receive a grant. The CRA maintains a list of eligible expenses. This deduction (unlike a tax credit) reduces your taxable income dollar for dollar, if eligible. This means your tax savings depends on your level of taxable income and tax bracket. The higher your income, the bigger your tax savings. Only the person with the disability can claim the deduction. Further, you can't claim the same expense under both the METC and the disability supports deduction.

- **Child disability benefit and Canada Disability benefit**. The Child Disability Benefit and Canada Disability Benefit is a tax-free monthly amount.

  - The **Child Disability Benefit** pays to families who care for a child with a disability. To qualify, the child must be under 18 years old and eligible for the DTC. The parent must also be eligible for the Canada Child Benefit (CCB). The amount of the payment depends on the number of children, marital status and "adjusted net family income". If you receive the CCB, you don't have to apply. However, the CRA needs the information to determine whether you qualify. Therefore, you must file the DTC form for your child as well as your annual tax return.

- The **Canada Disability Benefit** pays to Canadian residents between 18 and 64 years old. To qualify, you must be approved for the DTC and filed your previous year's tax return. Your spouse or common-law partner must also have filed their previous year's tax return, if applicable. The amount of your payment depends on your "adjusted family income" up to a maximum benefit of $200 per month (July 2025-June 2026). It's adjusted for inflation annually. You must apply for the benefit to receive it, which you can do through Service Canada.

- **Canada/Quebec Pension Plan (CPP/QPP) disability benefit**. The CPP/QPP disability benefit pays a taxable monthly benefit for those who qualify. The benefit provides support for those unable to work long-term because of a disability. Eligibility is not the same as eligibility under the DTC. To qualify, you must be under 65 and not receiving CPP/QPP retirement benefits. Finally, each program requires a certain level of contributions to CPP/QPP before you qualify.

Government income and other non-monetary support programs

Each province and territory have a main support program. These programs may include income support and non-monetary support such as employment, social, educational, housing, or other support programs. In addition, many programs may provide a supplemented prescription drug plan. These tools and supports can be costly or difficult to obtain without first qualifying under the program policy. Generally, to qualify there is some form of means test that looks at asset and/or income thresholds. There is a common thread among the eligibility thresholds for each program:

- **Asset threshold test**. Each program defines exempt and non-exempt assets. For example, some programs exempt a principal residence, vehicle, or disability support devices. However, if you sell the asset, the proceeds may affect your asset levels. In most cases, the amount of assets you can own to qualify is very low.

- **Income threshold test**. Most programs also have an income threshold to qualify. Again, every program has their own definition of income, but in most cases the amount is very low. Keep in mind that income may include more than taxable income on your tax return. Many programs include gifts or distributions from trusts as income under their means test. We discuss this more below.

Each program sets their own policies and eligibility requirements. In addition to the main provincial/territorial program, you may have access to various municipal or not-for-profit programs. Review all available programs with your financial advisor and the government department in charge of the program.

The value of family support when planning for someone with a disability

Your plan may also include replacing or supplementing family support. A lot of non-monetary support comes from families in different forms. For example, a family member may provide housing, physical, social, or other support. If the family member is no longer around, you may need to replace support with government or private resources. Consider all forms of support and whether replacing it requires added resources when building your plan. As with the non-monetary government support programs, this may require significant resources to replace. A robust plan may include life insurance on the person who provides support to ensure services they provide continue.

Registered disability savings plan (RDSP)

An RDSP is a long-term savings program for someone who qualifies for the DTC. An RDSP allows contributions, tax-deferred growth and access to government grants and bonds for a beneficiary of the plan. You can contribute up to $200,000 per beneficiary. Although there is no annual limit, strategically planning your contributions can maximize the amount of grants and bonds.

- **Canada Disability Savings Grant (CDSG).** You receive CDSG as a matching grant based on money contributed to the RDSP and your "family income". For each eligible year, you can receive up to $3,500 in grants on as little as $1,500 in contribution. There is a lifetime maximum of $70,000 in CDSGs.

- **Canada Disability Savings Bond (CDSB)**. You can also receive CDSBs based your "family income." However, CDSBs don't require contributions. The CDSB provides up to $1,000 per eligible year for low-income Canadians. There is a lifetime maximum of $20,000 in CDSBs.

You can earn CDSBs and CDSGs (on contributions made) until December 31 of the year the beneficiary turns 49. The amount you earn depends on your "family income" for the year as mentioned above. For those 18 and younger at the beginning of the year, your family income is the same income used to determine eligibility for the CCB. For example, your parents' or guardians' income. Thereafter, the beneficiary's net income determines grant and bond amounts. You can carry-forward unused entitlements from the previous 10 years if you meet certain conditions. Unused entitlements accumulate if you qualified for the DTC in those previous years before you opened the RDSP. The entitlement also depends on your family income for those years like with the basic grants and bonds. There is an annual limit of $10,500 in CDSG and $11,000 in CDSB carry-forward entitlements.

Contributions, grants, and bonds grow tax-deferred while inside the plan. Withdrawals must begin the year a beneficiary turns 60. Withdrawals prior to this may result in repayment of a portion of the grants and bonds, subject to conditions. When you withdraw funds from an RDSP, there is a taxable and non-taxable portion to each withdrawal. You generally contribute to an RDSP with after-tax money. Therefore, the beneficiary receives those contributions tax-free when withdrawn. However, the beneficiary pays tax if contributions came from a Registered Retirement Savings Plan (RRSP) rollover. The beneficiary pays tax on grants, bonds, and growth they withdraw from the RDSP.

RDSP effect on eligibility for government support programs

RDSPs can provide financial stability and security for someone with a disability to meet continuing needs. However, does an RDSP or the withdrawals from an RDSP affect asset or income tested support program eligibility? Below is a summary of how each main provincial/territorial support program assesses RDSPs against their means test.

	Fully	Partially
Exempt as an asset	All provinces and territories	N/A
Exempt as income	British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Yukon, Nunavut, and Northwest Territories	Quebec ($950 per month) New Brunswick ($800 per month)

Remember that each program can define both assets and income for purposes of mean testing. Further, these policies can change.

Review your situation against the specific wording and support program policy

When not to use an RDSP

An RDSP may not be appropriate for everyone. Once you place contributions in the RDSP, they belong to the beneficiary (not the RDSP holder). Therefore, the RDSP is an asset of the beneficiary. If a beneficiary lacks capacity to make a will, any remaining assets will form part of their estate. The assets then flow to their heirs, subject to rules of intestacy which may not be your plan. Further, an RDSP is a long-term planning tool. If the beneficiary doesn't need the funds for long-term planning purposes, it may not be appropriate. Rules also limit contributions to an RDSP if the beneficiary loses their DTC eligibility. Finally, a beneficiary may have capacity, but is vulnerable to suggestion. They could withdraw the funds if they are the RDSP holder. If you want tighter control, a trust may be a better choice.

Using trusts

Planning using trusts can be an alternative or a supplement to RDSPs depending on your situation. Some reasons to use a trust include:

- Lack of financial capacity of beneficiary to manage their own affairs.
- Maintaining access to government support programs.
- Protecting an inheritance from third party claims (e.g. creditor or family law claims).
- Providing flexibility and/or control for a beneficiary's changing circumstances.

You can potentially use any form of trust. However, some trusts provide greater planning opportunities. Usually, the opportunities relate to tax reduction or retaining eligibility under provincial/territorial support programs. You'll see below that these trusts are not mutually exclusive. A trust may qualify as more than one (or all) of the types we review below. It all depends on how your legal advisors set it up.

Absolute discretionary "Henson" trust

One of the most well-known trusts for someone with a disability is the absolute discretionary trust. It is more commonly known as the Henson trust for the Ontario court case where it originated. You can create a Henson trust during your lifetime (known as inter vivos) or through your will (known as testamentary). The key to a Henson trust is the wording of the trust provisions. To qualify, the trustees must have absolute discretion to control, manage and distribute the trust assets. Henson trusts also generally include beneficiaries other than the beneficiary with a disability. Other beneficiaries help to avoid trust rules that allow trustees and beneficiaries to wind up a trust. In addition, other beneficiaries may assist in provinces where rules against accumulating income inside a trust remain. If triggered, rules against accumulating income may force your trustee to distribute the funds to a beneficiary.

The absolute discretion provisions mean that a beneficiary cannot demand income from the trust. Nor can they access the capital without the trustee(s) choosing to distribute the money. This in turn may ensure they remain eligible for support programs with asset or income tests.

Henson trust effect on eligibility for government support programs

Does a Henson trust affect asset tested support program eligibility? Below is a summary of how each main provincial/territorial support program assesses Henson trusts against their asset test.

	Recognized/in-use	Untested/unknown
Excluded as an asset	British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador	Yukon, Nunavut, Northwest Territories

The Supreme Court of Canada discussed Henson trusts in a case originating from British Columbia. The Court reviewed whether a Henson style trust is an asset available under a subsidized housing program. They decided the trust was not an "asset" under the program's terms for eligibility. This was because of the absolute discretionary nature of the trust and the wording of the program's policy. However, the Court indicates this does not mean assets in a Henson trust are exempt under all support programs. Each program is free to develop their own definitions for eligibility. They can choose whether to include assets in an absolute discretionary trust.

The Henson trust may help ensure assets and income earned inside the trust do not affect means testing. However, most programs include distributions from the trust as income for means test eligibility. That is, unlike RDSP income, trust income is not exempt under most programs. Some programs may exempt a certain level of income from trusts. In addition, there may be specific exemptions where the beneficiary uses the income to purchase exempt assets. Each program is different, and we recommend you review them with the government department and your professional advisors.

The goal of a Henson trust is to provide you with flexibility when planning. The trustee(s) can decide whether to distribute money to the beneficiary based on their needs. They may even distribute where it affects the support program eligibility if it provides the beneficiary with better support.

Income distributed from a trust is generally subject to support program thresholds for income purposes.

Qualified disability trust (QDT)

Specific tax rules may also provide more planning opportunities. Most trusts pay tax at the highest marginal tax rates on income you earn and retain in the trust. A Henson trust works by providing the trustee(s) with discretion to retain income inside the trust. If the general tax rules apply, the trust could be subject to significant taxes. One exception to the highest marginal tax rate rule is the QDT. A properly structured QDT continues to qualify for graduated marginal tax rates. A QDT also qualifies for the lower 50% inclusion rate on the first $250,000 of capital gains annually. This is an exception to the increased 66 2/3% inclusion rate effective as of June 25, 2024. This provides tax savings and maintains flexibility to allow the trustee(s) to retain income inside the trust. This helps reduce the likelihood of distributions to a beneficiary and affecting their eligibility for support.

The Income Tax Act (ITA) contains specific requirements to qualify as a QDT including:

- It must be a testamentary trust (arising as a consequence of the death of the settlor/contributor).
- At least one beneficiary is eligible for the DTC.
- The trustees and the beneficiary jointly elect the trust as a QDT for the year. You cannot elect more than one trust in a year. But it does not need to be the same trust each year.
- The electing beneficiary must be named in the instrument creating the trust.
- The trust cannot be a foreign trust (trust must be a resident of Canada).

A QDT requires only one beneficiary be eligible for the DTC. This means a QDT can have other beneficiaries who may not be eligible for the DTC themselves. As noted above, many trusts include other beneficiaries as a planning tool. However, because the QDT provides access to lower tax rates, the ITA contains "recovery tax" rules to prevent abuse. The complex recovery tax rules apply when the QDT distributes income initially taxed at the graduated tax rates to a non-DTC eligible beneficiary. The graduated tax rates are meant to benefit the beneficiary with the disability. Not other beneficiaries of the trust. Therefore, the recovery tax mimics the amount due if the income hadn't been taxed at the lower rates.

A QDT may also qualify as a Henson trust if it meets the qualifications set out above. However, not all QDTs are Henson trusts and not all Henson trusts are QDTs. For example, a Henson trust created during your lifetime cannot be a QDT since it isn't a testamentary trust.

Preferred beneficiary election (PBE)

A beneficiary can elect only one trust to be a QDT in any given year. This may cause problems where someone is beneficiary of more than one trust. Or if the trust does not qualify as a QDT. One planning tool under the ITA is the PBE. The PBE is a joint election between an eligible beneficiary and a trust. The election allows the trustee(s) to retain income in the trust but tax it on the beneficiary's tax return. This allows access to the beneficiary's graduated tax rates. To qualify for the election, the beneficiary must be:

- A resident of Canada;
- Either,
  - entitled to the DTC; or
  - an adult who is dependent on another individual because of mental or physical impairment and has income below the basic personal exemption; and
- The settlor, or the spouse/common law partner, child grandchild, great-grandchild of the settlor of the trust.

Although the PBE may provide greater tax flexibility, using the PBE requires careful attention. For example, you retain income in the trust, but the beneficiary reports the income on their tax return. Therefore, the beneficiary may require distributions from the trust to pay the tax. The income may then affect their support program eligibility. In addition, some provinces restrict accumulations inside trusts after a certain period. Thereafter, the trust must pay income to the beneficiaries. You may only be pushing the problem down the road and affect support program eligibility later. Having other beneficiaries of the trust can ease this concern. In this case, you would structure the trust to distribute money to the non-DTC eligible beneficiary.

Lifetime benefit trust (LBT)

One of your largest assets may be your RRSP or Registered Retirement Income Fund (RRIF). You can name a spouse/common law partner, or financially dependent child as beneficiary on an RRSP/RRIF. The ITA then contains rules allowing a beneficiary to rollover the assets to their RRSP/RRIF on a tax-deferred basis. However, in general, you cannot transfer registered assets to a trust without incurring taxes. If left directly to the beneficiary, the registered account may affect means testing eligibility (as an asset or income). To ease this concern, the ITA contains specific rules to allow you to rollover registered assets to an LBT.

To qualify as an LBT the beneficiary must have a mental infirmity. In other words, the disability cannot be solely physical. The beneficiary must also be either the:

- spouse/common law partner of the RRSP/RRIF annuitant immediately before their death; or
- child or grandchild who was financially dependent on the RRSP/RRIF annuitant immediately before their death.

The LBT must purchase a qualifying trust annuity on the life of the beneficiary. The annuity must also be either a life annuity or term to age 90 annuity. The annuity must require the trust to commute any guaranteed period to a single payment following the beneficiary's death. In addition, the trustee(s) must have the discretion whether to distribute to the beneficiary. The ITA requires the trustee(s) to consider the needs of the beneficiary including their comfort, care, and maintenance. The DTC is not a requirement for an LBT.

An LBT may qualify as a Henson trust if the trust contains the absolute discretion provisions. An LBT may also qualify as a QDT if the beneficiary is DTC eligible and elects for that year. However, it doesn't need to and may not always. In provinces that restrict trust accumulations, an LBT may not be able to qualify as a Henson trust. This is because only the beneficiary with the mental infirmity can receive distributions from an LBT during their lifetime.

The bottom line

Your holistic plan may include tax measures and support programs, RDSPs and/or trusts. Your financial advisor can assist you in coordinating with your legal, tax and medical professionals to maximize your plan.