

Government proposes including siblings in definition of ‘qualifying family member’ for RDSPs

Tuesday’s budget also proposes extending a measure that was set to expire this year

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The federal government is proposing to extend to Dec. 31, 2026 a measure allowing qualifying family members to open an RDSP for an adult beneficiary whose contractual capacity is in doubt and who does not have a legal representative. The temporary measure was set to expire at the end of 2023.

The government also proposed in Budget 2023 to broaden the definition of “qualifying family member” to include an adult brother or sister of the beneficiary.

“This will enable a sibling to establish an RDSP for an adult with mental disabilities whose ability to enter into an RDSP contract is in doubt and who does not have a legal representative,” the budget stated.

Jamie Golombek, managing director of tax and estate planning with CIBC Private Wealth, called it a positive change.

“Often it’s a sibling who takes financial responsibility for a brother or sister living with a mental disability,” he said.

Where the contractual competence of an adult is in doubt, an RDSP planholder must be that individual’s guardian or legal representative as recognized under provincial or territorial law.

However, establishing a legal representative “can be a lengthy and expensive process that can have significant repercussions for individuals,” the budget said.

The government introduced the qualifying family member provision in 2012 as a stopgap measure while provinces and territories developed “more appropriate, long-term solutions to address RDSP legal representation issue for persons with disabilities.”

“While most provinces and territories have made significant progress, others have not. The government continues to encourage provinces and territories that have not already done so to address issues surrounding guardianship for persons with disabilities.”

According to the budget document, total assets within RDSPs have grown to approximately \$8.8 billion.

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