

Spousal RRSP Strategies

Strategically saving for future income splitting and tax splitting

Our tax rules allow you to put money in your own registered retirement savings plan (RRSP) or an RRSP of your spouse or common-law partner. We'll use the term spouse to refer to spouse or common-law partner in this article.

- For your own RRSP, you are both the contributor and annuitant/owner.
- For a spousal RRSP, you are the contributor and your spouse is the annuitant/owner.

As contributor, you are entitled to claim a tax deduction, whether the funds go into your RRSP or your spouse's. The annuitant is then taxed on later withdrawals from the plan – so long as you stay within the rules, as discussed below.

This can be a simple, effective tool to help couples get more spendable cash out of savings in retirement. It can also be used strategically to manage near-term cash flow and taxes, and to ease the transition in the years leading up to and into retirement.

Principal benefit: Income splitting in retirement

Our progressive income tax system levies higher tax rates as a person's income increases. Generally, a household's income tax bill will be minimized when two spouses' incomes are equalized. That's true whether you are in your working years or in retirement. The problem during your working years is that you can't equalize by just giving away your current income to your spouse for current use.

However, current-you can equalize with future-you by giving/contributing some of your income to your RRSP. With the likelihood that you will require less income in your later years, this effectively shifts income down tax brackets. Better yet, if you expect your spouse to be at an even lower bracket, you can use a spousal RRSP to convert your current high income into your spouse's future low income.

This does not mean that every allowable dollar should be contributed to a spouse's RRSP. The idea is to equalize, not to swap positions, with a spousal RRSP being one way to get you closer to that happy medium.

How much can you contribute?

A person's annual RRSP contribution room is 18% of the previous year's earned income (to an indexed dollar maximum, which is \$30,780 in 2023), plus unused room from previous years. If there are any contributions to a registered pension plan on the person's behalf in the year, a pension adjustment will reduce that annual room.

Within that available room, there is no minimum amount or proportion that must be allocated to one's own RRSP, nor any maximum that may be contributed to a spousal RRSP.

After age 71

Contributions can be made to an RRSP up until December 31 of the year that an annuitant turns 71. For your own RRSP, you can't make any further contributions after you pass that year-end. However, you may still contribute to a spousal RRSP if your spouse is 71 or younger, no matter how old you may be yourself.

On death

Contributions cannot be made to an RRSP of a deceased person. However, a deceased person's executor may make a spousal RRSP contribution from the estate in the year of death or within 60 days after the end of that year. The deduction for the contribution may be claimed on the deceased individual's final tax return.

Non-qualified RRSP room

There are a few situations when special RRSP room can only be used for a taxpayer's own RRSP. Even so, a spousal RRSP contribution may serve as a complement or substitute, depending on circumstances.

Commuting a registered pension plan

When leaving an employer, an employee has the option to commute the value of a registered pension plan (RPP) and roll it tax-free into a locked-in RRSP. If the commuted value is greater than the regulated limit for rollover, the excess amount is taxable in the year the pension is commuted.

- If the person has other unused RRSP room, the excess amount could be contributed to either the person's own RRSP or a spousal RRSP to offset the tax.

Retiring allowance

A payment made in recognition of long service to a departing/retiring employee is taxable. However, for each year the person worked prior to 1996, \$2,000 of the payment is eligible to be contributed to the person's RRSP, plus \$1,500 for each year employed prior to 1989. Such contributions do not require or affect existing RRSP room.

- If the person has other unused RRSP room, the non-eligible portion of the retiring allowance could be contributed to either the person's own RRSP or a spousal RRSP to offset the tax.

Foreign pension

When a Canadian resident cashes out a foreign pension in a lump sum, the Canadian dollar equivalent is brought into income. However, special RRSP room is allowed in that year for the person to make an RRSP contribution up to the amount of that income inclusion.

- If the person has other unused RRSP room, the person could choose not to use the entire special RRSP room, instead allocating a portion of the cash to a spousal RRSP.

Canvassing more potential benefits

In addition to retirement income splitting, a spousal RRSP may be used to strategically manage tax in other ways. There are many considerations in determining whether and how to do this, with the main factors being the spouses' current and future (expected) income levels and tax brackets, and the age difference between them.

Withdrawals in low-income years

In theory, a spousal RRSP can be used for income splitting at almost any stage of life. There is no legal requirement that a person be retired to take RRSP withdrawals, and in fact there is no formal definition of retirement in the RRSP rules.

One of the uses of a spousal RRSP could be as a standby reserve to bridge income during an unexpected employment gap, though preferably coordinated with a dedicated emergency fund. Alternatively, it could be an intentional part of a plan to manage a known upcoming low-income period, for example a planned work sabbatical or parental leave for the birth or adoption of a new child.

Still, care should be taken not to deplete a couple's savings to the extent that their retirement may be put at risk. As well, the legal ability to take withdrawals does not change the fact that withdrawals are taxable, and possibly taxed to the higher income spouse, as discussed further on.

Participation in the RRSP Home Buyers' Plan or Lifelong Learning Plan

Though an RRSP is designed for retirement savings, it may also be used to assist in the purchase of a new home or to pay for later life education. To participate in either program, one must be an annuitant of an RRSP.

- The Home Buyers' Plan (HBP) allows up to \$35,000 to be applied toward the purchase of a new home. With a spousal RRSP in place, this will double the amount to \$70,000 available to a couple.
- The Lifelong Learning Plan (LLP) allows up to \$20,000 to be applied toward education. The annuitant must be the student, so the existence of a spousal RRSP assures that each spouse may make use of the LLP.

Amounts taken out are not taxed if returned to an RRSP in the following years, in accordance with program rules.

Potential deferred RRIF conversion

All RRSPs must be matured by the end of the year that the annuitant turns 71. Maturing means either taking amounts into income, purchasing a registered annuity that makes annual income payments, or transferring to a registered retirement income fund (RRIF) - or a combination of these elements.

The application of this rule can be delayed by as many years that the annuitant of a spousal RRSP is younger than the contributor. That's because RRSP closing/conversion is strictly dependent on the annuitant's age, irrespective of who contributed.

Working with and around the pension income splitting rules

Under the pension income splitting rules, someone who receives eligible pension income (EPI) may split up to 50% of that amount with a spouse. This is achieved through a joint election made by the pensioner and the spouse when filing their annual income tax returns.

Under age 65

If the pensioner is under age 65, EPI is most often limited to RPP payments, though RRIF and annuity payments qualify if they come from a plan that was originally owned by a predeceased spouse. Otherwise, a pensioner must be 65 or over for RRIF and annuity payments to be EPI. Withdrawals taken directly out of an RRSP do not qualify as EPI at any age.

With a spousal RRSP, the couple can skirt around the age 65 criterion for RRIFs. Subject to the attribution rules discussed below, the annuitant/owner of a spousal RRSP may take withdrawals regardless of either spouse's age. What's more, the full amount will be taxed to the recipient, whereas the pension splitting rules require the pensioner to be taxed on at least 50% of the income before any amount may be split with a spouse.

Age 65 and over

Even if the pensioner is over 65 with the ability to split RRIF income, the existence of a spousal RRSP can provide greater flexibility. Per the last point in the paragraph above, a spousal RRSP gets around the need for a pensioner to receive taxable RRIF income first, before splitting with a spouse. That could be especially important in later years when a pensioner is receiving a greater portion of interest income in their non-registered portfolio, which may already be pushing the pensioner's taxable income higher.

Consider as well that age 65 is when a person may begin Old Age Security (OAS). If a pensioner is close to the OAS recovery tax income threshold (See the article "OAS – Old Age Security" for details), then the benefit from splitting the RRIF may be offset by the clawback of future OAS payments. Facing that a prospect, a pensioner may instead decide to limit RRIF payments, with the unfortunate result that the couple may then be living a lifestyle below what is actually feasible. Meanwhile, that RRIF and its associated tax liability continue to grow. With a spousal RRSP in place, exposure to OAS clawback could be alleviated or avoided altogether.

Early withdrawals and attribution

Once a contribution has been made to a spousal RRSP, the annuitant/owner spouse is legally entitled to take withdrawals from the plan. The annuitant is taxed on those withdrawals, except when the withdrawal occurs in the year of contribution, or in one of the two immediately preceding taxation years. Withdrawals in that three-year period are attributed to the contributor. To be clear, attribution does not mean the contributor pays the annuitant's taxes, but rather that the withdrawal is added to the contributor's income, at a presumably higher tax bracket.

This attribution rule does not affect the annuitant spouse's withdrawals from RRSPs to which he/she had been the only contributor. Such withdrawals are taxable to that annuitant/owner in the normal manner.

Contributions before year-end, or in the first 60 days of the year

Note that it is the year of contribution that matters, not the taxation year against which the contributor claims the deduction. To illustrate, a contributor is entitled to take a tax deduction when filing their 2023 income tax return, whether a contribution is made during 2023 or in the first 60 days of 2024. However:

- For contributions in the first 60 days of 2024, attribution may apply to withdrawals in 2024, 2025 or 2026.
- If instead a contribution had been made before 2023 year-end, the three-year attribution period would begin in 2023, and end in 2025.

Multiple spousal RRSPs

One may wonder: Is it possible to get around the attribution rule by contributing to one spousal RRSP, while taking withdrawals from another? The answer is 'no'.

The attribution rules cannot be avoided either by setting up multiple spousal RRSPs with one financial institution, or by spreading them across financial institutions. Attribution is based on contributions to any spousal RRSP, with the three-year look back rule applying to withdrawals from any spousal RRSP.

Commingling funds

A financial institution's business rules may allow a spousal RRSP to be set up so that only the non-annuitant spouse may contribute, or both spouses may be allowed to contribute. As well, it may be established as a new account, as an addition to an existing spousal RRSP, or as a deposit to an existing RRSP of the annuitant.

In the last case, the contribution converts the account into a spousal RRSP, and it will always be treated that way thereafter. This is true even if later withdrawals exceed spousal contributions, and even if those withdrawals are attributed to the contributor spouse. It's obviously important to be attentive to how contributions are arranged, as a misstep could seriously constrain the annuitant spouse's ability to take non-attributable withdrawals in future.

Verifying tax slips, especially for online contributions

The tax slip for a spousal RRSP distinguishes which spouse is the contributor, and which the annuitant. Again, it is the former who gets the deduction, and the latter who owns the plan. When working with a financial advisor, a couple can confirm directly with the advisor that the contribution and tax slips align with their intentions.

Extra care should be exercised with online accounts, as it is generally necessary to be on the annuitant spouse's connection to make the contribution. Some issues that may arise:

- The default setting may be for contributions to be recorded as being by that person to his/her own RRSP. If so, the annuitant spouse would get the deduction, not the intended higher income spouse.
- If the annuitant spouse does not have sufficient RRSP room, an over-contribution penalty would apply.
- Alternatively, if the higher income spouse is correctly identified as contributor, but the target account is the annuitant's own RRSP, that account may unintentionally be converted into a spousal RRSP.

Review all elements of online transactions so that any necessary revisions may be made before the final click.

Ordering rules for withdrawal

When both spouses contribute, the expectation may be that withdrawals from spousal RRSPs will be proportional to contributions, or on either a first-in/first-out or last-in/first-out basis. On the contrary, all withdrawals in a year are deemed to be the contributor's, up to the amount of his/her contributions in the three-year attribution period.

To demonstrate, assume the annuitant opens an RRSP with \$5,000 in year one, to which the contributor adds \$5,000 in year two. On a \$6,000 withdrawal in year three, \$5,000 is attributable. If the order is switched and the contributor initiates a spousal RRSP with \$5,000 in year one, followed by \$5,000 in year two from the annuitant, that \$6,000 withdrawal in year three will result in the same attribution of \$5,000 to the contributor.

Exceptions

Attribution does not apply in the following circumstances:

- Withdrawals occurring while spouses are living separate and apart;
- Withdrawals made during or following the year the contributor dies;
- An amount deemed to be received by a plan annuitant due to the annuitant's death;
- Withdrawals in a year when either spouse is a non-resident of Canada;
- An amount transferred directly into another RRSP, or used to purchase an annuity that cannot be commuted for at least three years from the date it was purchased;
- An amount that is transferred to a defined benefit pension plan to buyback past service; and
- Amounts withdrawn from an RRSP in accordance with the rules of the HBP or LLP.

Repayments to the RRSP Home Buyers' Plan or Lifelong Learning Plan

Both the HBP and LLP require that amounts taken out of an RRSP be repaid in the years following their use for the respective home or education purpose. Repayments need not be made to the same RRSP from which the funds originated, but must be to an RRSP of that same person as annuitant. This can provide some relief from the future application of the attribution rule, if withdrawals from a spousal RRSP are repaid to a non-spousal RRSP.

Repayments may not be allocated to a spousal RRSP of which the other spouse is the annuitant.

Any unrepaid amount is taxable to the annuitant in the year it was due. Fortunately, even if the repayment schedule begins within the three-year period related to contributions, attribution does not apply to missed repayments.

Conversion to RRIF

When a spousal RRSP is converted into a spousal RRIF, the three-year attribution rule continues to apply, but only to the amount above the annual RRIF minimum. Bear in mind that there is no RRIF minimum in the year that an RRSP is converted to a RRIF, so attribution applies from the first dollar of any RRIF withdrawals that year.

RRIF withdrawals may be based on the age of the annuitant or the annuitant's spouse. Commonly, this is used to minimize the minimum RRIF withdrawal schedule for an older annuitant, by choosing the age of a younger spouse. However, it can also work the other way, with the annuitant of a spousal RRIF choosing the older spouse's age, squeezing a little more out through a higher minimum that is not subject to attribution.

When attribution applies to spousal RRIF withdrawals, any attributed amount is not considered to be EPI for pension income splitting. The amount will be taxed to the contributor, even if the contributor is over age 65.

Withholding tax

Financial institutions are required to withhold tax on all withdrawals from RRSPs, and on the amount in excess of the minimum withdrawal for RRIFs. The annuitant will receive a tax slip showing total withdrawals for the year, and the amount of tax deducted/withheld.

The withheld tax is remitted by the financial institution to the Canada Revenue Agency (CRA), as a credit against the annuitant's eventual tax due, and may contribute to a tax refund for the annuitant. The withheld tax cannot be used by a contributor spouse to whom any amount may be attributed.

The spouses must complete CRA Form T2205 "Amounts from a Spousal or Common-law Partner RRSP, RRIF or SPP to Include in Income." Each attaches a copy of the completed form to their income tax return for the year.

For more information, please consult your financial advisor and tax professional.

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