

CASE IN POINT

Sales Tax Estate Planning Underwriting & Product Newsletter

Home Buyers Plan and marital/partnership breakdown



The Federal Budget 2019 proposes to increase the amount of money that can be withdrawn from an RRSP on a tax-free basis. An additional proposal extends access to the Home Buyers' Plan in scenarios where there has been a marital breakdown or common-law partnership uncoupling. This will be seen as welcome news considering that an estimated 4 in 10 marriages in Canada will end by the 30th year of marriage.¹ There were some 2.64 million divorced people living in Canada as of 2018.² Not all married couples who separate get divorced. Not all of these people will enter another shared domicile relationship. According to Stats Canada, approximately 9% of Canadians aged 15+ were divorced or separated and not living common-law in 2017. So what does all this say about a "single again" adult wanting to buy a home? Let's look at Sondra's situation.

Who is eligible for the Home Buyers' Plan?

This program allows an individual to withdraw funds from their Registered Retirement Savings Plan (RRSP) to buy or build a qualifying home for themselves or for a related person with a disability. Specifically, the individual or related person with a disability must have a written agreement to buy or build the qualifying home before the time of the RRSP withdrawal. The individual buys or builds it, or is considered as buying or building it, before October 1st of the year after the year of the withdrawal. The individual must intend to occupy the qualifying home as their principal place of residence within one year after buying or building it and if built, on the date it becomes habitable.

¹ Mary Bess Kelly, "Divorce Cases in Civil Court, 2010/2011," Juristat, Statistics Canada; catalogue no. 85-002-X (page last updated Nov. 30, 2015). Link: www150.statcan.gc.ca/n1/pub/85-002-x/2012001/article/11634-eng.htm. ² Separation and Divorce, General Survey on Families, 2016 Census.



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Peter works with independent advisors and other professionals raising awareness on issues and concerns faced by affluent individuals, professionals and business owners. He supports efforts in researching and developing optimal solutions for clients aimed at improving their financial well-being and supporting their personal wishes and lifestyles. He annually provides 100's of workshops, seminars and technical support throughout the country on tax, retirement income and estate planning issues, concepts and strategies to both advisors and consumers. As an accredited Registered Financial Gerontologist, a good deal of his time is spent on building awareness and educating people of all professions who work with or specialize in the needs, expectations and issues of elders. Comprehensive lifestyle planning is an important element of these processes.

The Sales, Tax, Estate Planning, Underwriting & Product (STEPUP) team provides internal and broker support, including seminars, education, advanced concept illustrations & Client case technical consultations.

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The individual, but not the related person with a disability, must be considered a first time home buyer at the time of the RRSP withdrawal. A first time buyer is an individual who did not own or occupy a home that was the individual's principal residence:

- beginning January 1st of the fourth year before the year of an RRSP withdrawal and
- ending 31 days before the date of an RRSP withdrawal and
- wasn't owned or occupied by their spouse or common-law partner

For example, if an individual withdrew funds from their RRSP on May 10th, 2019, the four-year period began on January 1, 2015 and ends on Apr. 9th, 2019.

Example

Sondra and her spouse bought a home together about 3 years ago. Neither one participated in the Home Buyers Plan. The couple separated in October, 2019 and began living separate and apart at that time because of this. Sondra's spouse left the matrimonial home and moved to another city. What are Sondra's options and for that matter, that of her spouse, in terms of buying the same or another home?

Sondra and her former spouse begin negotiating the split of their assets. Sondra may buy out her former spouse's interest in the home. To do that, she needs additional cash and needs to make a withdrawal from her RRSP. The proposed rules, to take effect for withdrawals made after 2019, will permit Sondra to be considered a first time home buyer in January 2020. One of the conditions under the proposed extension of the Home Buyers' Plan is that a couple must be living separate and apart for at least 90 days. Sondra can make the RRSP withdrawal after that time, provided she satisfies the other conditions under the Home Buyers' Plan. Sondra may acquire the interest or right of her separated spouse or common-law partner in the matrimonial home no earlier than 30 days before the withdrawal is made and no later than September 30th of the year following the date of withdrawal. That helps in the negotiation process of when the sale can take place.

Sondra's spouse will also have an opportunity to access the Home Buyers' Plan provided that (s)he disposes of their interest or right in the former matrimonial home to their separated spouse or common-law partner (Sondra in this case) no later than the end of the second calendar year after the year of their RRSP withdrawal and then purchases a qualifying home. The spouse will be deemed to be a first time home buyer effective the date of withdrawal. Here again, provided the spouse satisfies all other conditions under the Home Buyers' Plan on the date of withdrawal, (s)he can make the RRSP withdrawal under the Home Buyers' Plan in accordance with the proposed changes.

Furthermore, the Canada Revenue Agency (CRA) is currently administering the proposed increased \$35,000 withdrawal limit on the basis of the Budget 2019. This is consistent with its standard practice for proposed tax measures. This gives Sondra access to more money to buy out her former spouse's share in the home they once owned together. It also provides her former spouse with an opportunity to access a higher amount of RRSP monies for the purchase or building of a qualifying home.

Sources of information: Home Buyers' Plan, Government of Canada, modified May 3, 2019; How to participate in the Home Buyers' Plan (HBPP), Government of Canada, Apr. 4, 2019.

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