



RRSPs PROTECTED IN BANKRUPTCY

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All Registered Retirement Savings Plans (RRSPs) and Registered Retirement Income Funds (RRIFs) are now exempt from seizure in bankruptcy, except for contributions made in the 12-month period leading up to the bankruptcy. This change took effect on July 7, 2008.

In the past, certain RRSPs and RRIFs were not protected from creditors in the case of bankruptcy. This meant that the trustee would take the RRSP or RRIF and distribute the funds to creditors of the bankrupt person. Some RRSPs, such as locked-in RRSPs or RRSPs with a life insurance component, were exempt in bankruptcy and could not be seized by the trustee and distributed to creditors.

Employees with company-sponsored or government-sponsored pension plans got automatic protection of their pension income in the case of bankruptcy. However, many workers and all self-employed individuals not having access to private employment pension plans had to set aside funds for their retirement by saving money in RRSPs. As it was seen to be unfair to offer bankruptcy protection in some cases but not others, the *Bankruptcy and Insolvency Act* was amended to ensure consistent treatment of retirement plans.

Under the new legislation, all RRSPs and RRIFs are exempt from seizure in bankruptcy, with one small exception. To prevent abuse, funds contributed to the RRSP in the 12 months before the date of the bankruptcy are subject to seizure.

Under Ontario law, certain items are also exempt from seizure by a creditor or by a trustee in bankruptcy. The *Execution Act* includes the following exemptions:

- \$5,650 worth of necessary and ordinary wearing apparel;
- \$11,300 worth of furniture, equipment, food and fuel;
- A motor vehicle not exceeding \$5,650 in value; and
- \$11,300 worth of tools and other items ordinarily used by the debtor in the debtor's business or profession.

To discuss the cost and procedures necessary to declare bankruptcy, make an appointment with a trustee in bankruptcy. Most trustees offer a free initial consultation. Information can also be obtained from the Office of the Superintendent in Bankruptcy by calling 416-973-6486. Their website can be found at <http://www.ic.gc.ca/eic/site/bsf-osb.nsf/eng/home>.