

Changes in US Reporting for Canadian RESPs

Positive News for US Citizens in Canada !

July 2020

Are you still preparing and filing those annual forms for the RESP you have set up for your child or grandchild? Good news ! Forms 3520 – *Annual Return to Reports Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts*; and 3520A – *Annual Information Return of Foreign Trust with a U.S. Owner*, are no longer required.....finally !

As of March 16, 2020 eligible US Citizens are exempt from the informational reporting previously required for Registered Educational Savings Plans (RESP)– specifically the two Returns mentioned above; the 3520 and the 3520A. [Revenue Procedure 2020-17](#) makes this possible. Those filing for Registered Disability Savings Plans should also look at this Revenue Procedure.

Are you eligible?

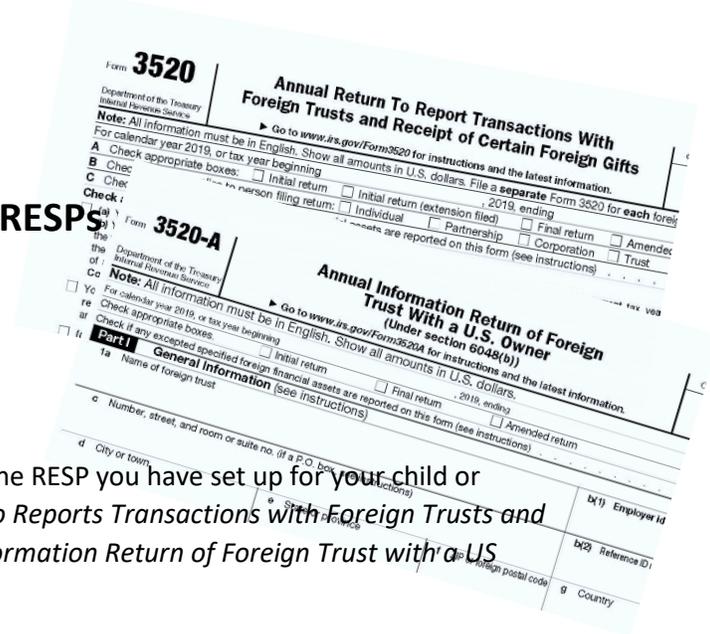
US citizens that have been complying with the law; filing these returns; reporting contributions, distributions and earnings and including any income within their US income tax returns appear eligible. You just need to have been compliant in the past.

The Revenue Procedure 2020-17 specifies two types of trust that can qualify for the exemption from reporting. 1) *Tax Favored Foreign Retirement Trusts* and 2) *Tax Favored Non-Retirement Savings Trust*. The RESP falls under the second category meeting the following requirements;

- An RESP is generally exempt from income tax or tax favoured by Canadian law
- Annual informational reporting is provided or available to the taxing authority
- RESP contributions are limited in total to \$50,000 CAN per beneficiary – to qualify with the revenue procedure, contributions are limited to \$10,000 per year or \$200,000 US in total. Keep that in mind if you have a family plan with multiple beneficiaries.
- The revenue procedure requires that the trust payments and withdrawals be only for medical, disability or educational benefits or penalties must be required. RESP plan withdrawals are to be made only for the educational expenses of the beneficiary – otherwise there are penalties and accumulated interest becomes taxable.

And just like that, we no longer have to file the US Form 3520 and 3520A for RESPs. What a relief ! However, don't get too, too relaxed. This is a big paperwork relief for sure but remember, any income that you would have previously had to report from the trust into your US Personal Income Tax return still has to find it's way into your tax return. And if you previously had to complete separate forms (maybe form 8621) because there were Canadian Mutual Funds or ETFs in the RESP plan, you still have to do those. This is just an exemption given on the Informational Reporting of the trust / RESP. All income and certain elements of the RESP must still be reported.

My suggestion to those that can take advantage of this exemption is that you submit a "final" foreign trust return before you eliminate it entirely. You will notice on the cover page of the Form 3520 and



3520A that there is a little box that can be ticked to indicate that the return is “final”. I like this idea because it lets the IRS know what to expect. Throw in a cover letter to explain your reliance on Revenue Procedure 2020-17 and you should have all your bases covered. Many different foreign trusts are reported using the forms 3520 and 3520A. It is probably a good idea to let the IRS know why you are discontinuing reporting instead of receiving a letter from them asking where your informational returns are and informing you they are late.