Applying for the Disability Tax Credit

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Recently, there has been an uproar accusing the Canada Revenue Agency ("CRA") of denying the disability tax credit ("DTC") for those living with diabetes. Families and advocates for those with other disabilities such as autism have also noted greater scrutiny on the part of the CRA when it comes to applying for a disability tax credit.

So why is this a concern?

Loss of the disability tax credit does not only mean the loss of a tax credit to the person living with the disability or family member caring for them. There are other financial repercussions. Upon losing the DTC:

- Any Registered Disability Saving Plan (RDSP) will need to be collapsed, resulting in the repayment of government grants and bonds that were received within the ten years prior to collapsing the RDSP.
- Families caring for a child under the age of 18 will lose the child disability benefit, an additional monthly benefit included with the Canada child benefit (CCB).
- A person over the age of 18 and living in British Columbia will lose their Persons with Disability (PWD) assistance, a program meant to assist with monthly support, shelter, healthcare and transportation.
When applying for disability tax credit, consider these four tips to ensure a successful claim.

1. Preparation
2. Choosing a medical practitioner
3. Completing and sending the T2201 form
4. Follow up

T2201 Form Preparation

The starting point to applying (or reapplying) for the DTC is to complete the Disability Tax Credit Certificate Form (“T2201”). It is strongly recommended that you read the form along with the tax guide Disability-Related Information (RC4064) prior to completing the T2201 form. A denial of disability tax credit often occurs because the form is incomplete or the information provided was not persuasive enough to indicate conditions of a disability.

The CRA considers eligibility of the DTC based on the effects of the impairment, not on the medical condition itself. A person may have autism, but what does that mean for them to function in everyday life? What support or supervision is needed in order for them to function and how does this compare to someone of the same age without the impairment?

There are two different criteria the CRA uses that the medical practitioner needs to address:

**Markedly Restricted** - Someone is markedly restricted if they are unable, or it takes them an inordinate amount of time, to do one or more of the basic activities of daily living. This applies even with therapy (other than therapy to support a vital function) and the use of appropriate devices and medication.

**Significantly Restricted** - An individual is significantly restricted if they don’t meet the definition of markedly restricted, but their vision or ability to do a basic activity of daily living is still greatly restricted.

In both cases, the impairment must be prolonged (continuous period of at least 12 months) and is present all or substantially all of the time (at least 90% of the time).

To qualify for the disability tax credit, the individual must be markedly restricted in at least ONE basic activity or significantly restricted in at least TWO basic activities of daily living.

The CRA defines basic activities of daily living in relation to an individual as meaning:

- The mental functions necessary for everyday life (e.g., memory, problem solving/goal-setting, judgment and adaptive functioning)
- Feeding or dressing oneself
- Speaking so as to be understood, in a quite setting, by another person familiar with the individual
- Hearing so as to be understood, in a quite setting, by another person familiar with the individual
- Eliminating (bowel or bladder functions)
Choose Your Medical Practitioner

Sometimes, your family doctor may not be the best person to complete the T2201 form. Most family doctors have a huge patient load and they see a significant number of patients on a daily basis. They simply may not have the time to complete the form in the level of detail as required by the CRA. A T2201 form that is either incomplete or is too vague may result in the CRA sending a supplementary questionnaire requesting further information to the medical practitioner, thus delaying the DTC.

Your family doctor is not the only one who can complete the T2201 form. Nurse practitioners, optometrists, audiologists, occupational therapists, physiotherapists, psychologists and speech-language pathologists can also certify impairment. However, you should match the medical practitioner with the medical issue. If the person with the disability has vision issues, a speech-language pathologist would not be suitable for filling out the T2201 form.

Be cognizant of the medical practitioner's time and be willing to assist them in answering the questions in the T2201. Consider situations where the individual is markedly or significantly restricted and provide the medical practitioner with these situations in writing. The more persuasive evidence you can provide, the greater the likelihood of successfully obtaining the disability tax credit. Also, do not over-exaggerate the truth. You would not expect a professional accountant to help you evade taxes; likewise, you should not expect your medical practitioner to make your loved one's disability appear worse than it really is. Stick with the facts that you can adequately support.

There may be a cost associated with having a medical practitioner complete the T2201 form, but that cost is an eligible medical expense, which may be claimed on your personal income tax return.

Completing and Sending the T2201 Form

Although the medical practitioner fills out the T2201, it is your responsibility to ensure the form is complete and adequately reflects the disability. Now is the time to look critically at your medical practitioner's responses and ask yourself if the responses adequately address the disability. Work with your medical practitioner to ensure that the responses are complete and substantiated. The CRA is willing to grant the DTC, but only if there is enough documentation and information to demonstrate the effects of the impairment.

Once complete, make a copy of the completed T2201 form and any supporting materials (e.g., copies of medical reports, diagnostic tests, etc.). Send the original signed form and copies of supporting records to the CRA. It is important to keep a record because you should have a reference point for any renewal application. More importantly - if the T2201 is denied, you can refer back to see whether certain sections may not be in line with how CRA assesses markedly or significantly restricted impairments.
Follow Up, Follow Up and Follow Up

Follow up with everyone involved when applying for a disability tax credit, from the medical practitioner to the CRA. The CRA may send you an update about having received your completed T2201 form and they are in the review process. Or, they may send a supplementary questionnaire to your medical practitioner requesting further information.

Sometimes that questionnaire is lost amongst the piles of paperwork in your medical practitioner’s office. If the CRA does not receive the questionnaire within a specified amount of time, the application may be denied. Check to ensure that any supplemental questionnaire is completed and sent. Be willing to offer your assistance in providing information relevant to the questions in the questionnaire, if needed.

Once the CRA has confirmed receiving the completed T2201 form, there is not much more you can do and you will need to let the wheels of bureaucracy move at its pace. At some point, a decision will be made. If that decision is not favourable, review why the application for the disability tax credit was denied and speak with your medical practitioner about the CRA’s findings. If you disagree with the CRA’s decision, the next course of action would be to write to your tax centre and ask them to review your application. Include any relevant medical information that you have not already sent. Alternatively, you can file a formal objection within 90 days of the date of the notice of determination.

For assistance with applying for the Disability Tax Credit, contact the Manning Elliott Tax team in Vancouver at 604-714-3600 or in Abbotsford at 604-557-5750.

The above content is believed to be accurate as of the date of posting. Tax laws are complex and are subject to frequent changes. Professional advice should be sought before implementing any tax planning. Manning Elliott LLP cannot accept any liability for the tax consequences that may result from acting based on the information contained therein.