

Tax Credit Lottery—December 31,2004

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What is this disability tax credit? Who qualifies? Who can claim it? What if I didn't claim it in the past but qualified? What if I can't use the credit? Can I transfer it to someone else? What will it cost me to make the claim?

Every time I speak to a support group of parents with children with disabilities, it seems that at least one family wins the "tax credit lottery" worth thousands of dollars. Parents who come to hear me speak, end up considering their parents or other family member's health and tax situation before the evening is over. My audiences are caregivers or accountants, both sleep deprived. It's a wonder they function at all, let alone figure out what disability tax credits to claim.

If you know a caregiver, consider volunteering to watch their charges for an hour or two on a weekly basis. Suggest they take a nap or go for a walk, alone. As for the accountants, there isn't much you can do if they choose not to sleep for months on end.

Here are the steps required to claim the disability tax credit:

1. Complete page 2 of an 8-page "Disability Tax Credit Form 2201" at <http://www.cra-arc.gc.ca/E/pbg/tf/t2201/README.html>
2. Visit the appropriate doctor. This can be a challenge, even considering they have known the person for as many years as the person has been disabled (see 4).
3. The doctor certifies that the person has a severe, prolonged disability that meets the criteria.
4. The doctor also fills in the box with the effective year the disability became severe and prolonged. From the website, www.disabilitytax.ca, here is a brief description of the disability tax credit:

"The disability tax credit (DTC) provides tax relief to individuals who, due to the effects of a severe and prolonged mental or physical impairment, are markedly restricted in their ability to perform a basic activity of daily living as certified by a qualified medical practitioner, or would be markedly restricted were it not for extensive therapy to sustain a vital function. Individuals are markedly restricted if, even with therapy or the use of appropriate devices and medication, they are blind or unable to perform a basic activity of daily living, or if they require an inordinate amount of time to perform the activity, all or substantially all of the time. The basic activities of daily living are walking, feeding or dressing oneself, perceiving, thinking, remembering, speaking, hearing, and eliminating bodily

waste."

5. Once the form is completed, I recommend a qualified accountant assist with the adjustments. There might be unintended consequences—some good and some bad, which you will want to know about, including:

- Tax credit claims can be reduced by claims for expenses such as childcare, moving expenses, attendant care, disability support (new in 2004), or certain medical expenses.
- The tax credits might be available to transfer to other family members.
- Tax returns of multiple family members could be affected. You are entitled to arrange your claims in the most beneficial way.

6. Check the re-assessments carefully to ensure that the adjustments were calculated correctly.

Is it worth it? How much money will this put in your jeans? In 1999, the tax credit was \$4,233. You should be aware that there are also provincial credit amounts that apply. In 2000 and subsequent years, the federal credit increased as follows:

- 2000 - \$4,293
- 2001 - \$6,000
- 2002 - \$6,180
- 2003 - \$6,279
- 2004 - \$6,486

In addition to the disability tax credit, starting in 2000, a disability tax credit supplement was added. This credit is adjusted for childcare expense claims paid by any person for that child. Here are the federal credit amounts for each year:

- 2000 - \$2,941
- 2001 - \$3,500
- 2002 - \$3,605
- 2003 - \$3,663
- 2004 - \$3,784

How much less tax would this mean to a family with one income of \$65,000? Normally this family would have net pay of \$50,000. The taxpayer that claims the disability tax credit and the supplement for a child, totaling \$10,170, would be eligible for an additional tax refund of \$1,643 in 2004. For a family living on \$50,000 a year after-tax, \$1,643 per year is almost enough to cover heat and light, or the cost of insurance for a vehicle. When it was \$4,233 a year, it was about \$1,000 per year. So, if your 7-year-old hasn't been in daycare, and the doctor signs that he's had autism since birth along with ADHD, you could claim for 1997 through 2003. Depending on your income in those years, you could be looking at a claim of over \$10,000. If they have been in daycare, the claim will be reduced because the supplement is reduced for daycare paid by any one for that child.

If the child qualifies for the disability tax credit, there is a new tax-free child disability benefit of another \$1,653 per year. This benefit decreases with income over \$35,000 and stops at about \$48,000. Since this family's income is \$65,000, they won't qualify. This tax-free credit commenced July 2003. It was announced in the spring of 2003 and the first payments were made in the spring of 2004, just prior to the federal election.

If you want to see the effect on the income and quality of life of children with disabilities view

- Statistics Canada reports for 2001 that relate to disability in Canada at www.disabilitytax.ca under Background Information/Materials,
- Children with disabilities and their families, Statistics Canada, July 29, 2003 at <http://www.statcan.ca/english/IPS/Data/89-585-XIE.htm>.

The Minister must have envisioned a flood of claims and limited the fairness provisions to 10 years in the budget in early 2004. Until December 31, 2004, you could go back to 1985 to make claims for credits that you were entitled to under the fairness provisions. After the end of this year it's limited to 10 years. See the CRA news release that details the deadline to file for years from 1985 to 1994 at <http://www.cra-arc.gc.ca/newsroom/releases/2004/oct/1018ottawa-e.html>.

A warning is in order here. If you could have claimed income but didn't claim it in those years, you should consider claiming it under the voluntary disclosure program. See IC00-1R - Voluntary Disclosures Program (income tax) at <http://www.cra-arc.gc.ca/E/pub/tp/ic00-1r/README.html>

What will it cost you to have a qualified professional look at the tax returns for those years? How long does it take to do your tax returns now? If it takes 1-3 hours per year, multiplied by their hourly rate, would it be worth it if the professional not only made sure you were claiming the disability tax credit, but they found more expenses you could claim if they were to review your old tax returns? Would you pay \$1,000 or \$2,000 to get \$10,000? Here are a few examples of missed claims I have found over the last 18 years in my practice:

- RRSP receipts obtained for January and February and claims not made for multiple years;
- Medical expenses you could have claimed;
- Margin interest on your investment portfolio, which you missed claiming;
- Union dues or donations in your file you didn't claim;
- Home office costs not carried forward.

When I say that people win the "tax credit lottery", I wish it was a joke. Refunds seem to range from \$10,000 to \$20,000. It's not always about disability. One single mother with 3 healthy children receiving spousal and child support had not filed her tax returns since 1995 when her marriage fell apart. Between GST

credits, Child Tax Benefits and net of taxes owed for support, a \$20,000 claim could have been filed. It was enough to turn on the heat in the house to counteract the damp Vancouver winter, buy a car, fix the leaky roof, pay for the first year of university for the oldest son and take a holiday—the first in 10 years. Imagine how much it would have been if one of those children was disabled. If you know someone like this who needs assistance to comply with filing requirements, offer to help them get started.

What motivates me to speak about this topic? This report recommended the Minister of Finance educate Canadians of their rights about the disability tax credit. It makes many recommendations, including the inclusion of breathing as a basic activity of daily living. See—First Report of the House of Commons Standing Committee on Human Resources Development and the Status of Persons with Disabilities - Tax Fairness for Persons with Disabilities, December 11, 2002

<http://www.parl.gc.ca/InfoComDoc/37/2/HUMA/Studies/Reports/HUMArp1-e.htm>

As a result of this report, the Minister of Finance asked the Tax Advisory Committee (www.disabilitytax.ca) to address issues related to tax measures benefiting persons with disabilities in the spring of 2003. This study was to be for 18 months and to report in the fall of 2004. In advance of the report, the Minister is already doing damage control by issuing recent claims that Canadians do know about their tax credits and are claiming them. See the Disability Tax Credit: Evaluation Report at http://www.fin.gc.ca/toce/2004/taxexp04_e.html

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