

A Guide to Understanding and Claiming the Disability Tax Credit:

The Government of Canada offers a variety of tax benefits to people with disabilities. These benefits are provided under the assumption that people with disabilities will have unavoidable, additional expenses that are not faced by other taxpayers. The Disability Tax Credit (DTC) is intended to act as a fairness measure for people with disabilities¹ and their families. As such, it is designed to help offset the additional expenses associated with having a severe and prolonged impairment in physical or mental functions, which markedly restricted a person's ability to perform at least one basic activity of daily living. For the year 2010, the DTC amount is \$7,239.00. This amount is multiplied by a person's tax rate to determine the actual dollar benefit that they will receive. The DTC also includes a supplement for people under the age of 18. In 2010, the supplement amount is \$4,223. This supplement may be reduced if, in 2010, someone claimed child care expenses or attendant care expenses for the individual. It may also be reduced if the taxpayer with a disability claims attendant care expenses for himself. In total, for the year 2010, the DTC plus supplement could represent up to \$1,719² being returned to an individual taxpayer.

The Disability Tax Credit came into being in 1988 as a non-refundable tax credit. Being non-refundable means that it is designed to help to reduce a person's taxable income to zero. If the application of the credit results in a negative tax owing, no refund is issued. However, any amount of the disability tax credit that is not needed by the person with the disability to reduce their taxes payable to zero can be transferred to a "supporting person". A supporting person may be able to claim all or part of their dependant's disability amount if the person with a disability was resident in Canada at any time in 2010 and was dependent on the supporting person for some or all of the basic necessities of life (food, shelter, or clothing). A supporting person can be a spouse or common-law

¹ Technical Advisory Committee on Tax Measures for Persons With Disabilities, www.disabilitytax.ca/chpt2

² (\$7239.00 + 4223.00 X 15%)

partner, or a parent, grandparent, child, grandchild, brother, sister, aunt, uncle, nephew or niece of the individual.

One of the features of the DTC is that if a taxpayer failed to claim it for a particular taxation year, they can back-file for up to 10 years and receive full benefit for each of those years. This can result in substantial amounts of money being received by people with disabilities or by people who have provided support to them.

Over the past several years, a number of organizations³ have been created with the stated purpose of assisting individuals in applying for these credits. The implication is that the process is very difficult and should not be attempted by the Canadian public. Some also imply that they have “inside” information or contacts with Canada Revenue Agency and that without their involvement, people will not be able to access all of the credits available to them. They often entice people into dealing with them by offering “Free Consultations”. Some of these organizations have been known to charge a fee of up to 30% of any taxes recovered. In real terms, this means that individuals often find themselves paying thousands of dollars for something that they could do on their own for the cost of a postage stamp. In fact, says Canada Revenue Agency’s spokesman Philippe Brideau:⁴ “the application process for the Disability Tax Credit is not complicated,” A person can keep their own money by simply following the application process themselves. However, if people are uncomfortable with completing the process themselves, they could utilize the services of a **fully qualified** Chartered Accountant and pay a few hundred dollars in fees.

The intent of this information package is to demystify the process of determining a person with Cerebral Palsy’s eligibility to receive the DTC and to guide people toward claiming the full credit that they are entitled to. The expectation is that people will be able to spend a few minutes of their own time to read and follow this document’s

³ Listing available via author at graeme@ofcp.on.ca

⁴ The Toronto Star, Print Article 916219 January 5, 2011

instructions to access potentially thousands of dollars that may be available to them from the Government of Canada.

Qualifying for the Disability Tax Credit:

The Disability Tax Credit is available to people who have a severe and prolonged physical or mental impairment. Because of that impairment, the individual must be markedly restricted all or substantially all of the time in their ability to perform a basic activity of daily living, or would be markedly restricted were it not for extensive therapy they receive to sustain a vital function.⁵ Under the Canada Revenue Agency's definition⁶, a prolonged impairment has lasted or is expected to last, for a continuous period of at least 12 months. Markedly Restricted means that all of the time or substantially all of the time a person is unable (or it takes an inordinate amount of time) to perform one or more of the basic activities of daily living even with therapy (other than life-sustaining therapy to support a vital function) and the use of appropriate devices and medication. Canada Revenue Agency has indicated that as a guideline, "substantially all of the time" means that the restrictions in activity are present 90% of the time or more.⁷ All of this information is reported to Canada Revenue Agency via the T2201 Disability Tax Credit Certificate.

A person may be eligible for the disability amount if a qualified practitioner certifies on Form T2201 Disability Tax Credit Certificate, that you have a prolonged impairment, and that the effects of the impairment are such that one of the following applies:

- You are blind, even with the use of corrective lenses or medication.

- You are markedly restricted in any one of the following basic activities of daily living:
 - speaking;

⁵ Technical Advisory Committee on Tax Measures for Persons With Disabilities, www.disabilitytax.ca/chpt2 pg. 3

⁶ CRA Form T2201 E (10)

⁷ Technical Advisory Committee on Tax Measures for Persons With Disabilities, www.disabilitytax.ca/chpt2

- hearing;
 - walking;
 - elimination (bowel or bladder functions);
 - feeding;
 - dressing; or
 - performing the mental functions necessary for everyday life.
- You need, and must dedicate a certain amount of time specifically for, life-sustaining therapy to support a vital function.
- **For 2005 and later years**-you do not quite meet the criteria for blind or markedly restricted, but the following conditions apply:
 - because of your impairment, you are significantly restricted in two or more basic activities of daily living, or you are significantly restricted in vision and at least one of the basic activities of daily living, even with appropriate therapy, medication, and devices;
 - these significant restrictions exist together, all or substantially all the time; and
 - the cumulative effect of these significant restrictions is equivalent to being markedly restricted in a single basic activity of daily living.

The Disability Tax Credit Certificate (Form T2201):

In order to apply for the Disability Tax Credit, information relating to your disability must be reviewed by Canada Revenue Agency. This information is collected on form T2201, “Disability Tax Credit Certificate” which is submitted to CRA. This form can be obtained on line at <http://www.cra-arc.gc.ca/E/pbg/tf/t2201/t2201-10e.pdf> . In order to assist an individual in determining whether or not they may qualify for the DTC, the T2201 form contains a self-assessment questionnaire. This questionnaire may be useful in helping a person decide on how to proceed with the application.

It should also be noted that the Disability Tax Credit Certificate is a requirement for participation in the Registered Disability Savings Plan. Therefore, even if a person doesn't need the Disability Tax Credit (due to income levels) there is significant benefit in qualifying for it.

If a person needs assistance in filling out the form and if they wish to appoint another individual or organization as their Representative for income tax matters, they must complete CRA's form T1013, "Authorizing or Cancelling a Representative". This form can be found on the web at <http://www.cra-arc.gc.ca/E/pbg/tf/t1013/t1013-10e.pdf> . The completed form will allow the named representative to have access to your records with CRA and to act on your behalf with respect to issues surrounding your tax matters.

The T2201, "Disability Tax Credit Certificate" application form itself is completed in two parts. The person with the disability or their representative completes part "A". It outlines information about the person with the disability such as their name address, Social Insurance Number (SIN #) and date of birth. If the DTC is being transferred to a supporting person then information about that person is also collected. That information consists of their relationship to the person with the disability, their name address and SIN number. Further, the form collects information regarding the financial relationship between the person with the disability and the person claiming the disability credit if it is not the person with the disability. It is not necessary that the person with the disability lives with the person claiming the credit but there must be a financial link with respect to the basic necessities of life such as food, shelter, or clothing.

Once Part A of the T2201 form is completed, the entire document is forwarded to your qualified medical practitioner. The appropriate medical practitioner depends upon the condition that is being examined and commented upon. The following chart will assist in determining the practitioner to whom the forms are to be sent.

CONDITION:	QUALIFIED PRACTITIONER:
Vision	Medical Doctor or Optometrist
Speaking	Medical Doctor or Speech-Language Pathologist
Hearing	Medical Doctor or Audiologist
Walking	Medical Doctor, Occupational Therapist, Physiotherapist (physiotherapist can certify only for years 2005 and later)
Elimination (bladder or bowel functions)	Medical Doctor
Feeding	Medical Doctor or Occupational Therapist
Dressing	Medical Doctor or Occupational Therapist
Performing the mental functions necessary for everyday life	Medical Doctor or Psychologist
Life-Sustaining therapy to support a vital function	Medical Doctor
Cumulative effects of significant restrictions	Medical Doctor or Occupational Therapist (Occupational Therapist can only certify for walking, feeding and dressing)

Once the form is received by your choice of qualified practitioner, he or she will examine the document to determine the appropriate categories to be completed regarding your disability. Canada Revenue Agency has provided a web site (<http://www.cra-arc.gc.ca/tx/ndvdl/sgmnts/dsblts/qlfd-prcts/dtrmngng/menu-eng.html>) that is designed to assist them in completing the forms. The practitioner will determine whether the effects of the condition are severe and prolonged and whether or not the person is markedly restricted in performing activities of daily living through the answering of the various questions on the form. The categories of conditions are: Vision, Hearing, Walking, Elimination (bowel or bladder functions), Feeding, Dressing, Performing the mental functions necessary for everyday life, Life-Sustaining Therapy and the Cumulative effects of significant restrictions (after 2005). He or she will also indicate the date on which the marked restriction began and CRA uses this date as the date upon which a person became eligible for the credit if they are approved. This date is not necessarily the date of the diagnosis.

In Ontario, the completed and signed T2201 form is forwarded to Canada Revenue Agency at:

**Disability Tax Credit Unit
Sudbury Tax Centre
1050 Notre Dame Avenue
Sudbury, ON P3A 5C1**

It is always a good idea to keep a copy of all documents sent to Canada Revenue Agency. If the original documents are lost, you will have a copy to re-submit.

On occasion, Canada Revenue Agency may decline your request for the Disability Tax Credit based on the information submitted. If this is the case, a person with a disability has the right to submit additional information that may be relevant to the situation. If this fails to produce a positive result, a Formal Objection can be launched to appeal the decision. Instructions relating to the formal objection process is available on the T2201 form.

Re-file for Prior Years:

Upon approval of the DTC, the Income Tax Act allows the person with the disability or their supporting person to re-file their income tax returns for up to 10 years when they failed to take advantage of the credit. This could provide thousands of dollars of tax repayments to the individuals involved. To request a review of the prior years for which a person was eligible is an extremely simple process. All that is required is a letter to CRA containing the details of the request such as the years involved and other identifying information. A representative at CRA will complete all the calculations that are necessary to process a refund Cheque. It could take up to 6 months for the refund to arrive but it is well worth the wait. This request can easily be made by the individual

with the disability or their support person without the intervention of the Tax Re-File companies that have sprung up in the last few years. It is suggested that people keep the commissions of up to 30% of the refund for themselves by simply following the process as outlined above.

Filing for Future Years:

Once the Disability Tax Credit has been approved, people can not only re-file for prior years but they can also claim the credit in future years. When completing the income tax return, either the person with the disability (if they have taxable income to be reduced to zero) or the supporting person can claim the credit. If the person with the disability is claiming the credit, it is recorded on line 316 of the Income Tax Return. If it is being claimed by a supporting person, it is recorded on line 318. The claiming of the credit will reduce the taxes payable in the current year and if the Disability Tax Credit Certificate is issued on a permanent basis, for every year in the future.

In summary, the Disability Tax Credit is something that every person with a disability should examine. It is simple to apply for and can provide some significant dollar advantages to individuals and their families. If you are uncomfortable with completing the paperwork on your own, don't hesitate to contact a qualified Accountant for assistance but remember that you can do it yourself for next to no cost.