Wealth Management

INVESTMENT, TAX AND LIFESTYLE PERSPECTIVES FROM RBC WEALTH MANAGEMENT SERVICES

Tax Planning for Persons with Disabilities

Please contact us for more information about the topics discussed in this article.

If you are a person with a disability or care for and support a person who has a disability, it is important to be aware of the various tax measures and government funded programs that may be available to you or your loved one. Canadian income tax rules allow certain persons with a disability, and sometimes their financially supportive relatives, to access special tax credits, deductions and savings vehicles. As well, both the federal and provincial governments offer programs that provide benefits to disabled individuals.

There is no common definition of "disability" in Canada. It is possible that you might qualify for a disability benefit under one government program, such as the Ontario Disability Support Program (ODSP) but not qualify for another, such as the Disability Tax Credit (DTC) or the Canada Pension Plan (CPP) disability benefit.

This article highlights certain aspects of tax planning and general planning pertinent to persons with disabilities and their caregivers.

Any reference to spouse in this article also includes common-law partner.

The DTC is a non-refundable tax credit which may reduce the taxes payable by a disabled person or in some cases, the taxes payable by their supporting relative. If you are eligible for the DTC, you are able to claim the disability amount on your tax return.

Tax Credits and Deductions

The tax credits and deductions available to those with disabilities are plenty and complex in nature. There are many rules around who can claim them, and who can transfer them. It is important to consult with your qualified tax advisor as to which credits and deductions are available given your particular situation. The following are some common federal tax credits or deductions that may be available to you or your loved one.

Disability Tax Credit (DTC)

The DTC is a non-refundable tax credit which may reduce the taxes payable by a disabled person or in some cases, the taxes payable by their supporting relative. If you are eligible for the DTC, you are able to claim the disability amount on your tax return. As well, you may be eligible for other federal and provincial programs, such as the ability to open a Registered Disability Savings Plan, the Working Income Tax Benefit and the Child Disability Benefit (discussed in more detail later on).

Eligibility

A person needs to meet one of the following criteria to be eligible for the disability tax credit:

- Suffer from blindness;
- Is markedly restricted in at least one of the basic activities of daily living (hearing, walking, speaking, feeding, dressing and eliminating);
- Is significantly restricted in two or more basic activities of daily living; or
- Requires life-sustaining therapy (requires therapy to support a vital function and require therapy at least 3 times per week with an average of 14 hours weekly).

In addition, the impairment has to be:

- Prolonged (lasted or expected to last over a continuous 12 months); and
- Exist all or substantially all the time (at least 90%).

To qualify for the DTC, a qualified medical practitioner must certify on the Canada Revenue Agency (CRA) form, “Disability Tax Credit Certificate,” that you meet the criteria and the CRA needs to approve your application. If approved, they will identify which year(s) you are eligible for the DTC. The DTC can continue to be claimed as long as your circumstances do not change. However, you should notify the CRA if your condition improves to a point that you no longer qualify for the DTC.

If you are not able to use the entire credit, you may be able to transfer the excess to your spouse, or another supporting relative, such as your parent, child, brother, sister, aunt, uncle, niece or nephew. In order for the taxpayer to claim the tax credit, the person with the disability must be dependant on the taxpayer for support.

If you were eligible for the DTC for a previous year but did not claim the disability amount when you filed your return, you may be able to request an adjustment to your tax return for up to 10 years and receive the credit for those years. Speak to your qualified tax advisor to determine whether you or a loved one is eligible for the DTC.

Medical Expenses

You may be able to claim a tax credit for eligible medical expenses paid for yourself, your spouse and other eligible dependants, such as your or your spouse’s child, grandchild, parent, grandparent, brother, sister, uncle, aunt, niece or nephew. For the purposes of the tax credit, only expenses in excess of the lower of a prescribed threshold (this amount is indexed annually) or 3% of your net income can be claimed. The tax credit is 15% of the amount of expenses that exceed a certain threshold ($2,302 for 2018). Note that if the credit is being claimed for a dependant (other than

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your spouse or minor child), the tax credit is based on your dependant's net income, not yours.

In general, eligible medical expenses may be claimed even if they were incurred outside of Canada. For a detailed list of the types of expenditures that qualify for the medical expense tax credit, please refer to the CRA's Common List of Medical Expenses online.

In order to claim a medical expense tax credit in a particular tax year, the medical expenses must have been paid within any 12-month period ending in that particular tax year. If you are making a claim for a person who died within that tax year, the medical expense must have been paid within any 24-month period that includes the date of death and were not claimed in previous tax year. Also, if you are reimbursed for an eligible medical expense with a non-taxable payment, only the portion that was not reimbursed can be claimed as an eligible medical expense.

There are special rules about claiming the DTC and attendant care expenses as a medical expense that are beyond the scope of this article. Speak to your qualified tax advisor for more information about these rules.

Disability Supports Deduction

If you are physically or mentally impaired, you may be able to claim the disability supports deduction if you paid eligible expenses that no one has claimed as a medical expense. You must have paid for these eligible expenses so you could be:

- Employed or carry on a business (either alone or as an active partner);
- Do research or similar work for which you received a grant; or
- Attend a designated educational institution or a secondary school where you were enrolled in an educational program.

Only the person with the physical or mental disability can claim expenses for this deduction. This is a deduction against your taxable income, which may increase your or help you qualify for income-tested benefits. Examples of eligible expenses include: attendant care expenses, note-taking services, braille printers, and optical scanners.

You can only claim the disability supports deduction for eligible expenses for which you have not been reimbursed by a non-taxable payment. It is possible that you may be able to claim certain expenses as both a disability supports deduction or a medical expense. Speak to your qualified tax advisor about which option makes sense for you or whether the claim should be split between these two options.

Other Tax Credits and Deductions

Some of the other credits and deductions that may be available include:

- Spouse or common-law partner amount
- Amount for eligible dependant
- Canada Caregiver credit
- Tuition amount
- Working income tax benefit
- Child care expenses
- Home accessibility expenses

Speak to your qualified tax advisor about the tax credits and deductions that may be available to you. The province or territory that you reside in may also provide tax credits that can reduce your provincial or territorial income taxes.

Living with a Disability – Disability Benefits

In addition to tax credits and deductions, the federal, provincial

An RDSP is a savings plan that is designed to assist individuals who are eligible for the DTC in saving for their long-term financial needs. It offers generous government grants and bonds, the ability to grow investments on a tax deferred basis, as well as an opportunity for family members to assist with contributions.

and territorial governments offer a variety of services and financial benefits to assist people with disabilities and their families.

Child Disability Benefit (CDB)

The CDB is a tax-free benefit for families who care for a child under age 18 with a severe and prolonged impairment in physical or mental functions. The child must also be eligible for the DTC. The CDB is reduced when your adjusted family net income exceeds a certain threshold ($65,000 until June 2018).

Registered Disability Savings Plan (RDSP)

An RDSP is a savings plan that is designed to assist individuals who are eligible for the DTC in saving for their long-term financial needs. It offers generous government grants and bonds, the ability to grow investments on a tax deferred basis, as well as an opportunity for family members to assist with contributions. An RDSP can be opened for the benefit of a person, known as a beneficiary, who:

- Is eligible for the DTC;
- Has a valid Social Insurance Number;
- Is a resident in Canada when the plan is opened; and
- Is under the age of 60 (a plan can be opened for a person and contributions can be made to it until the end of the year in which the person turns age 59).

RDSPs do not have an annual contribution limit but there is an overall lifetime contribution limit of $200,000 per beneficiary. A beneficiary can only have one RDSP at any given time. Contributions to an RDSP are not tax deductible, however, investment income and capital gains earned within the RDSP are tax deferred. Upon withdrawal, the income earned and the grants and bonds are taxable in the beneficiary's hands. Contributions made into the plan can be withdrawn by the beneficiary on a tax-free basis. Withdrawals can generally be made at any time but may be subject to restrictions and may trigger the repayment of government grants in certain instances.

To accelerate the growth of an RDSP, the federal government offers two types of incentives, the Canada Disability Savings Grant (CDSG) and the Canada Disability Savings Bond (CDSB). These government grants and bonds are paid directly to the plan and can significantly increase the value of the RDSP over time. Contributions to an RDSP may attract CDSG, which is a grant provided by the government of up to $3,500 annually ($70,000 lifetime limit) until the end of the year the beneficiary turns age 49. The amount of CDSG paid to the plan depends on the amount contributed and the beneficiary's family net income. CDSB of up to $1,000 annually ($20,000 lifetime limit) until the end of the year where the beneficiary turns age 49 may also be paid into the plan for the benefit of a low-income beneficiary. No contributions have to be made to be entitled to the CDSB.

In general, RDSP payments do not affect eligibility for federal government income-based benefits such as OAS, the GST/HST credit and the Canada Child Benefit (CCB). As well, RDSP payments normally have little or no impact on provincial and territorial government disability support benefits.

Speak with your RBC Advisor if you want to learn more about RDSPs and ask for a copy of the article titled, "Registered Disability Savings Plans."

CPP Disability

If you are disabled and unable to work regularly, you may be entitled to CPP disability benefits provided you have contributed enough to CPP.

Many provinces and territories have programs to support their residents with disabilities who need financial assistance and/or health support. Eligibility for these programs is often based on the disabled individual's income and the value of their assets. Look into the programs offered to individuals with disabilities in your province or territory to determine if you or a loved one may be eligible.

In order to be eligible for CPP disability benefits, the following criteria need to be met:

- You have a severe and prolonged disability (severe means that you have a mental or physical disability that regularly stops you from doing any type of substantially gainful work and prolonged means that your disability is long-term and of indefinite duration or is likely to result in death);
- You are under the age of 65; and
- You meet the CPP contribution requirements (you have contributed to CPP in four of the last six years OR three of the previous six years if contributions have been made for at least 25 years.)

The CPP disability benefit consists of two parts – the basic monthly amount fixed for all recipients and an amount based on the amount you contributed to CPP during your career. If you are receiving a CPP disability benefit, your dependent children who are in your care and custody may also be eligible for a children's benefit. The child must either be under the age of 18 or between the ages of 18 and 25 and in full-time attendance at a recognized school or university. The monthly children's benefit is a flat rate that is adjusted annually.

CPP disability benefits are taxable to you in the year received at your marginal tax rate. While receiving CPP disability should you become employed and start earning income, there is a threshold amount you can earn without impacting your CPP disability benefits. For 2018, this amount is $5,500 (before taxes). Other than employment income, CPP disability is generally not an income or asset-tested benefit.

If you are receiving disability income from other sources, such as a private insurer or provincial or territorial social assistance program, you may want to check whether your payments will be adjusted should you be approved for CPP disability benefits.

CPP disability benefit payments may cease in any of the following circumstances:

- You are no longer disabled;
- You become capable of working on a regular basis;
- You pass away; or
- You turn 65 – when you turn 65, your disability benefit will automatically be converted to a retirement pension.

For more information on CPP disability, contact Service Canada.

Residents of Quebec should consult the Retraite Quebec website as the Quebec Pension Plan offers disability benefits similar to CPP.

Provincial and Territorial Disability Benefits

Many provinces and territories have programs to support their residents with disabilities who need financial assistance and/or health support. Eligibility for these programs is often based on the disabled individual's income and the value of their assets. Look into the programs offered to individuals with disabilities in your province or territory to determine if you or a loved one may be eligible.

Given the stringent requirements that must be met to receive many of the provincial or territorial benefits, it is important to be aware of how any inheritances, gifts, or income may impact an individual with a disability who is receiving benefits.

Workers' Compensation

Workers' Compensation programs are administered by the federal and provincial governments to provide financial assistance to employees who

The HBP allows individuals who are first-time home buyers to withdraw (borrow) up to $25,000 tax-free from their RRSP to purchase or build a qualifying home for themselves or a related individual with the disability. The government allows for some flexibility when homes are purchased for individuals with a disability, by removing the first-time home buyer requirement.

suffer from work-related injuries and occupational diseases. Compensation may be paid in respect of an injury, disability or death of a worker. These amounts may represent:

- Wage-loss replacement for time lost from employment due to a compensable injury or condition;
- Wage-loss replacement income paid to a worker who suffered a partial, total, temporary or permanent disability as a result of a work-related accident;
- Compensation for loss of future earnings due to an injury causing a temporary disability or permanent impairment; or
- Survivor benefits or wage-loss replacement income paid to the spouse or children.

Generally, these benefits are not taxable. They are, however, included in your total income when filing your tax return and is offset with a corresponding deduction when calculating your taxable income. Because they are included in your total income, they may impact income-tested benefits, such as the GST/HST credit or the CCB.

Other Disability Benefits

Consider whether or not you are eligible for any employer-sponsored disability benefits or have private disability insurance. These can be other means to support yourself during a period of disability. In general, employer paid short-term or long-term disability premiums are not taxable benefits to you. If your employer pays for your disability coverage, benefits collected in the future may be taxable to you. If you paid for the premiums on a disability insurance policy, the disability benefits are generally not taxable to you.

If you receive a benefit or allowance as an employee because of your disability, such as an amount to cover your transportation costs or attendant services, this benefit may not be taxable to you. For example, amounts paid for reasonable transportation costs between your home and work location, including parking near work, are not taxable to you if you are legally blind or have a severe and prolonged mobility impairment, which markedly restricts your ability to perform a basic activity of daily living.

Other Government Programs

Home Buyers' Plan (HBP)

The HBP allows individuals who are first-time home buyers to withdraw (borrow) up to $25,000 tax-free from their RRSP to purchase or build a qualifying home for themselves or a related individual with the disability. The government allows for some flexibility when homes are purchased for individuals with a disability, by removing the first-time home buyer requirement. If you are already a homeowner and you have a disability, or if you are a relative of a person who has a disability, you may be able to withdraw funds from your RRSP under the HBP if the withdrawal is to assist you or your disabled relative purchase a home provided:

- You or your disabled relative qualify for the DTC;
- The home better fits you or your disabled relative's needs than your/their current home; and
- You or your disabled relative intends to occupy the home as your/their principal place of residence within one year after building or buying the home.

Home Buyers' Amount

The federal government offers a $5,000 tax credit for first-time home buyers who purchase a qualifying home. If you are eligible for the DTC or you acquire a home for the benefit of a related person who is eligible for the DTC, you do not have to be

One common tool that is often used to preserve an individual's entitlement to government income support and benefits is a Henson Trust. A Henson Trust is a trust that provides the trustees with the absolute discretion to distribute income and capital from the trust to the beneficiary as they see fit.

a first-time home buyer. Instead, the purchase must be made to allow you or the related person with the disability to live in a home that is more accessible or better suited to the needs of the person with the disability. You or the related person with the disability must also intend to occupy the home as a principal residence no later than one year after it is acquired.

Supporting Someone with a Disability

If you are caring or supporting someone with a disability, you may be wondering if there are different ways to provide financial support. One option is to contribute to an RDSP. Contributions can generally be made to an RDSP even if you are not the holder of the RDSP as long as the holder gives consent.

Alternatively, you could make direct gifts to a disabled individual. If you decide to do so, you should determine whether the gifts or financial support you give to a disabled individual will affect any government assistance the individual may currently be receiving.

One common tool that is often used to preserve an individual's entitlement to government income support and benefits is a Henson Trust. A Henson Trust is a trust that provides the trustees with the absolute discretion to distribute income and capital from the trust to the beneficiary as they see fit. You can set-up or contribute to a Henson Trust during your lifetime or on your death through your Will. The terms of the trust provide the trustees with full control of the assets in the trust and they can decide when, if and how much income or capital is to be paid to the beneficiary. The beneficiary of a Henson Trust has no vested interest in the income or capital of the trust. This means that they cannot claim or demand payments from the trust and, consequently, they are not considered to own the trust assets.

Henson Trusts are subject to provincial and territorial regulations and may not be available as an effective strategy in every province or territory. It is imperative that you consult with a qualified legal advisor to determine whether a Henson Trust is recognized in the beneficiary's province or territory of residence before utilizing this tool.

For more information regarding Henson Trusts, please ask your RBC advisor for the article titled, "Henson Trusts".

Conclusion

In Canada there are numerous tax credits, deductions, savings vehicles, and support programs and benefits available to those individuals with disabilities. To the extent you have a disability or know an individual with one, consider the information discussed in this article and speak with a qualified tax advisor to ensure that you or the disabled individual is maximizing the resources and programs available.

This article may contain several strategies, not all of which will apply to your particular financial circumstances. The information in this article is not intended to provide legal, tax, or insurance advice. To ensure that your own circumstances have been properly considered and that action is taken based on the latest information available, you should obtain professional advice from a qualified tax, legal, and/or insurance advisor before acting on any of the information in this article.

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