Tax Credits for Special Needs Individuals

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About a year ago I started to write a book about financial planning for special needs individuals. The final product is at least a year or more away. Currently, I am working on non-refundable tax credits available to special needs individuals and their families. These credits are frequently overlooked and can literally leave thousands of dollars on the table. They can be used either by special needs individuals or by a family member supporting them.

Canada Revenue Agency (as part of their Fairness Provisions) will allow taxpayers to go back ten years to obtain tax credits that were overlooked and have gone unclaimed. For example, an overlooked disability tax credit of about $1,500 a year would produce a $15,000 tax refund.

The pity of all of this is that complicated and overlapping tax rules are almost impossible for the average person to figure out. People who should claim these credits don't and that's a shame. This article provides a case study on a typical tax credit oversight for a special needs person over the age of 18 with minimal income.

Tax Credits for Dependents

In order to claim a tax credit for a dependent, one must first know how a dependent is defined by the Income Tax Act. The following is a shortened version of someone who is a dependent taken from CRA Interpretation Bulletin IT-513R:

A person dependent on someone for support at any time in the year and is one of the following:

- The child or grandchild of the individual or the individual's spouse.
- The parent, grandparent, brother, sister, uncle, aunt, niece or nephew of the individual or the individual's spouse and living in Canada at some time during the year.

After this initial qualification is met, other criteria will apply (most notably the income of the dependant) to determine the amount of credit eligibility or partial eligibility.

The tax credits discussed in this case study are as follows:

- Eligible Dependent (Equivalent-to-Spouse Exemption)
- Caregiver
- Infirm Dependent
- Medical Expense
- Disability Tax Credit Transfer

Reduction of Tax Credits Reflect the Dependent's Income

Tax credits are reduced by the income of the dependent that exceed a certain threshold. Credit reductions are approximately as follows:

- **Eligible Dependent** - dollar-for-dollar of all income.
- **Caregiver** - dollar-for-dollar of income over $14,300.
- **Infirm Dependent** - dollar-for-dollar of income over $6,000.
- **Dependent's medical expenses** - 3% of net income of the dependent (maximum $2,000).
- **Transfer of Disability Tax Credit** - transferable to the extent the dependent cannot use it.

If, for example, the infirm dependent credit were being claimed, income of the dependent of $6,500 would reduce the credit by $500.

Reasons for Dependence

Each of the tax credit provisions provide a slightly different definition of a dependent. The following briefly summarizes each provision.

Eligible Dependent Person

- Wholly dependent for support by reason of mental or physical infirmity.

Caregiver

- Parent or grandparent over age 65.
- Dependent because of the particular person's mental or physical infirmity.

Infirm Dependent

- Dependen because of mental or physical infirmity.

Medical Expenses

- Dependent for support.

Case Study

Jones is a single parent living in Ontario. His income is $70,000 a year and he pays $15,000 in income taxes. His daughter Jill is 35 years old and developed a disability in her early twenties that qualified her for the disability tax credit but no application was ever made. In the past three years, Bill paid $14,000 a year in medical expenses for Jill. Jill lived with Bill from 1995 until 2007 when she responded to years of therapy and was no longer eligible for the disability tax credit. She earns $3,000 a year.

Bill's doctor recently signed Form T2201, the Disability Tax Credit Certificate, and it was approved by CRA for the years 2000 to 2007 after being submitted to CRA. An application for the tax credit for prior years (T1 Adjustment) will be filed under the CRA Fairness Provisions in order to get a tax refund. Jill can't use the credit, so it will be transferred to Bill.

After a review of Jill's situation it has been determined that Bill was and will continue to be entitled to the following tax credits relating to his dependent Jill.

For simplicity, we will assume that the total federal and provincial tax savings is 20% of the federal credit amount. We will take each credit on its own and discuss the important rules and restrictions for Bill and then summarize his total tax savings.

Disability Tax Credit

If the disability tax credit cannot be used by Jill, it can be transferred to Bill on whom she is dependent for support. Since the Fairness Provisions allow individuals to go back 10 years, the disability tax credit will be available for Bill from 2000 to 2007 (the year Jill ceased to qualify) for a total credit amount of $57,600. Bill should be entitled to a tax refund of $11,520.

Caregiver Tax Credit

Jill lived with Bill until 2007 and consequently he qualifies for the caregiver tax credit because she meets the criteria of being an adult relative living with him and dependent on him due to her infirmity. Jill's level of income is not restrictive since it is below the $14,300 threshold discussed earlier. Since she lived with Bill for eight years in the past ten years, he can claim a total tax credit of $$33,600 ($4,200 x 8) resulting in a tax refund of $6,720. The credit cannot be claimed if Bill chooses to claim the eligible dependent tax credit although the rules are a little murky in this area.

Eligible Dependent Tax Credit

This tax credit was once referred to as equivalent-to-spouse and is claimable in respect of a family member who is over 18 and not a married single. The credit is reduced by the dependent's income. If this credit is claimed, the caregiver and infirm dependent tax credits cannot be claimed. Since this credit is higher than either of the other two credits, it will be claimed by Bill subject to the income threshold reduction.

Credit amount	$10,300
Income reduction	3,000
Credit amount	$7,300
Tax credit (20%)	1,460

Jill was wholly dependent on Bill for eight years (2000 to 2007), so his total tax credit will be $11,680 ($1,460 x 8).

Infirm Dependent

The infirm dependent tax credit is claimable with respect to a dependent family member who is age 18 or older and dependent due to a mental or physical infirmity. The credit is reduced by Jill's income in excess of $6,000. Since Jill's income is only $3,000, Bill can claim the full credit for ten years. However, as pointed out earlier, the credit cannot be claimed if the eligible dependent credit is claimed. Since the eligible dependent credit will produce a higher tax savings for Bill, it will not be claimed by him.

	Federal Credit Amount	Approximate Annual Tax Savings
Disability Tax Credit	$7,200	$1,440
Caregiver Tax Credit	$4,200	$840
Eligible Dependent Tax Credit	$10,300	$2,060
Infirm Dependent Tax Credit	$4,200	$840
Medical Expenses Tax Credit	$10,000	$2,000

Dependent's Medical Expenses

Individuals are allowed to claim up to $10,000 of medical expenses for a dependent 18 years of age or older. No specific disability test applies other than being dependent for support in the year. Medical expenses are reduced by 3% of the dependent's income (up to a threshold of approximately $2,000) which would still make the annual claimable amount $10,000. Because Bill paid Jill's medical expenses for the past three years, he would have a savings of $6,000.

Summary

Because CRA will allow retroactive claims for up to ten years, Bill should eventually get a cheque from CRA of $29,200 summarized as follows:

Disability Tax Credit	$11,520
Caregiver	Nil
Eligible Dependent	$11,680
Infirm Dependent	Nil
Medical Expenses Tax Credit	6,000
	$29,200

Since the credits each year were always less than Bill's taxes, they will be fully refundable.

This may seem like an unusual example of tax savings for unclaimed tax credits, but it's not that unusual. Anyone who knows a family with someone who has a disability and is a dependent should strongly suggest that they seek out tax advice to see if tax refunds are lurking. Tax planning for special needs individuals is complex and not well understood by taxpayers and many tax preparers. Getting non-refundable tax credits is a good place to start.

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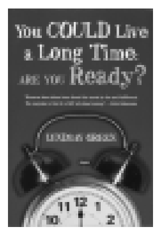
Cremation

"In Ontario cremated remains may be scattered on private land only with the consent of the landowner. No permission is required for scattering on crown land, on lakes or rivers or the ocean, or on land owned by the person who scatters the remains. Ashes in a container or urn cannot be interred on either public or private land, but must be buried in a cemetery, which charges for different forms of memorials. Cemeteries also have special areas for the scattering of remains.

For a loved one who was once close to the deceased, the experience of handling and spreading the ashes can be traumatic, and one should be prepared for a deeply felt emotional reaction."

The Funeral Advisory and Memorial Society Newsletter, www.funeralboard.com

MoneyBook



You Could Live a Long Time: Are You Ready? by Lyndsay Green, Thomas Allen Publishers, $19.95, ISBN: 978-0-88762-527-5.

The author squelches many misconceptions about aging that most people believe. She aims to teach people how they can better prepare for becoming productive and independent contributors to society as senior citizens. Without doubt this title is one of the best retirement-related books on the market, dealing with a lot of topics besides financial. A must read for anyone who may become a senior!