TAX NEWSLETTER

Fall 2013

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What Can You Claim For Your Dependants?

Krysta L. Adamski, Principal, WBLI Chartered Accountants, Dartmouth, NS, DFK Affiliate Firm

While the medical expense credit and other personal credits rarely attribute to a large tax refund, they certainly raise a lot of questions as to what can be claimed. Many children are left caring for their elderly parents and want to get all of the credits they are entitled to claim. This article will only address the federal credits; however, each province offers a comparable credit to reduce provincial taxes. The amounts vary by province.

The medical expense credit for 2013 is 15% of your eligible expenses after being reduced by the lessor of 3% of net income and the current threshold amount of $2,152. You can claim medical expenses for you, your spouse and minor dependants subject to your own threshold amount. You can also claim medical expenses for other dependants, such as your parents, subject to their own threshold amounts provided you or your spouse actually paid for the expenses.

Medical expenses can cover a wide range of expenditures, including the items most commonly thought of, such as prescriptions, dental and vision care. However, it also includes other items which are often overlooked, such as private health care insurance premiums and certain travel and accommodation expenses.

Medical expenses also include the costs of attendant care, nursing home and institutional care paid for your dependants. Certain criteria must be met for these costs to be eligible medical expenses. Please contact your tax advisor in this regard.

The infirm dependant credit can be claimed for anyone over 18 years of age dependent on you due to physical or mental infirmity. They do not need to be eligible for the disability tax credit nor do they need to live with you. The credit is reduced if the net income of the dependant is greater than $6,548. The amount of the tax savings is $980.

You can claim the caregiver credit for a parent or grandparent who is 65 or older or for any relative who is 18 or older and who is dependent on you because of a mental or physical infirmity. The dependant must live with you and the credit is reduced if the dependant's net income is greater than $15,334. The amount of the tax savings is $674. The caregiver credit can't be claimed if you are claiming the eligible dependant or infirm dependant credit for the same person.

The disability tax credit can only be claimed by having a medical practitioner complete and sign Form T2201 for a dependant who has a severe and prolonged mental or physical infirmity. The criteria for what constitutes a severe and prolonged mental or physical infirmity have been subject to much interpretation. For more information, please consult your tax advisor and possibly your medical practitioner. The amount of the tax savings is $1,155. If the dependant for whom you are claiming the credit is under 18, you can also claim a disability supplement which is an additional tax savings of $674.

New T1135—Foreign Income Verification Statement

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On June 25, 2013, the Minister of National Revenue announced a revised T1135 – Foreign Income Verification Statement as part of the Government's measures to reduce international tax evasion and aggressive tax avoidance.

All Canadian resident taxpayers are required to file Form T1135 if, at any time in the year, the total cost amount of all Specified Foreign Property to the taxpayer was more than $100,000 (C$).

Previously, Canadian resident taxpayers were required to classify the type of foreign property, identify the properties' aggregate cost, within a range, without indicating the exact cost for each property, and report the combined income from these assets.

The new form will now require Canadian resident taxpayers to identify:

- each asset;
- the country where the property is located;
- the name of the bank or entity holding the funds;
- the description of the asset;
- the name of the corporation issuing foreign shares;
- maximum funds held during the year;
- funds held at year end;
- the income or loss for the year;
- any gain or loss on disposition;
- whether the form is amended; and
- a description of all other property held outside of Canada.

The revised Form T1135 notes that "where the reporting taxpayer has received a T3 or T5 from a Canadian issuer in respect of a specified foreign property for a taxation year, that specified foreign property is excluded from the T1135 reporting requirement for that taxation year". You will still be required to file Form T1135. This exclusion only exempts you from providing details of the foreign property on Form T1135 itself.

Ambiguity exists in that a Canadian investment account may hold a combination of foreign investments that have and have not earned income during the year. In CRA's opinion, an investment that has not earned income has not been reported on a Canadian "T" slip. As a protective measure to avoid penalties, it is recommended you disclose the details of these investments on Form T1135 until the CRA provides clarification.

Form T1135 must be filed on, or before, the due date of your income tax return. If you have E-filed your income tax return, or are not required to file one, you are still required to file a paper copy of the form.

Proposed legislation will add a three year extension to the normal reassessment period for failure to comply with the new requirements, which will apply to the entire tax return. Failing to file Form T1135 will subject the taxpayer to a late filing penalty of $25 per day, to a maximum of $2,500 per year.

The CRA will provide taxpayers, who previously completed Form T1135, a reminder of their obligation to file Form T1135 on their Notices of Assessment.

The new Form T1135 places additional burden on taxpayers because it substantially increases the amount of details to review and disclose on the form. If a taxpayer is required to file Form T1135, all investment statements for the year will have to be reviewed. Unfortunately, increased disclosure requirements will impact the cost of preparing the form. If you are required to file Form T1135, you should discuss this new requirement with your accountant.

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How Proper Planning Can Help Protect Your Assets

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Creating a Last Will and Testament is one of the most important steps towards ensuring your family and assets are protected long-term.

For many of us, planning a Last Will and Testament is the furthest thing from our mind. No one wants to contemplate death and we all think, unless given a reason to believe otherwise, we will have plenty of time to get our financial affairs in order.

This attitude is especially true for those in their 20s and 30s. To a young adult, a Will can seem like a slightly morbid document that is only worth thinking about once middle age is in full swing. But planning the transfer of your assets and making your final wishes known should be a key component of tax and retirement planning for any individual, regardless of age or financial standing.

When pitching the idea of a Will to the younger generation, one of the biggest selling points is that if you sit on the decision and something unexpected occurs, the courts will be the ones to decide how all of your assets are distributed. For example, on Prince Edward Island, your spouse automatically receives a third of your estate, while your children receive the remaining two thirds. Other Canadian provinces have similar laws. This scenario leaves your family in an unenviable position which can cause significant tax issues that can leave your spouse without planned living and retirement funds and possibly without a home.

You've earned the right to decide how your assets will be distributed, how your spouse will be supported, who will care for your children, and/or who will inherit your business. Making these decisions now will give you peace of mind knowing you've secured the future of your loved ones.

A properly structured Will allows for maximum tax planning opportunities for your executor that can result in significant tax savings. Speaking with a tax advisor is always advisable, as they can take you through all the necessary steps and help you reap the tax benefits of being an early planner.

Here are some key considerations to keep in mind:

- Name an executor and a secondary executor. This is critical, as you want to designate the right person to follow through on your wishes. Whether family, friend or trusted advisor, the executor should have the knowledge and compassion to be able to deal with any sensitive matters that arise.
- Take advantage of the opportunity to transfer property to a spouse, allowing for a deferral of tax on your property until the passing of both spouses.
- Consider the use of a spousal trust to effectively transfer individually owned property.
- Ensure your executor has the ability to liquidate your assets if it is beneficial.
- Name a guardian for any children under the age of 18 so they will be cared for until they reach the age of majority.
- Consider a Trustee to manage any property transferred to children until they reach an age where they can manage their own affairs (generally 25 – 35 years of age).
- Consider any specific bequests or donations you may wish to make to individuals, entities or charities.
- If you are a business owner it is critical your Will work in conjunction with other guiding legal documents such as shareholder(s) agreements, family trusts, etc.
- Consideration should also be given to a Power of Attorney and health care directives.
- Review the Will periodically to ensure it is up to date, reflecting any changes that may have happened such as marriage, separation, or a new child.

The cost of a Will is usually reasonable and far outweighs the potential legal costs of not having one. It will take some time, and a little effort on your part, but planning your Last Will and Testament is just another step toward ensuring you are ready for whatever the future may bring.

Remember, it can be too late, but it can never be too early.

Registered Disability Savings Plan

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The Registered Disability Savings Plan (RDSP) was created to assist Canadian families with a person with a disability.

To be designated the beneficiary of the RDSP, you must:

- Be a resident of Canada when entering the plan;
- Have a valid social insurance number; and
- Be eligible for the disability amount under the rules of the Income Tax Act of Canada.

To qualify for the RDSP, you must have a severe and prolonged impairment in physical or mental functions, have the impairment certified by a qualified practitioner (medical doctor, psychologist or optometrist), and have the certification approved by the Canada Revenue Agency (CRA).

Severe impairment includes: blindness; requiring life sustaining therapy; being markedly restricted in at least one of speaking, hearing, walking, bowel or bladder functions, feeding, dressing, or performing the mental functions necessary for everyday life; and the cumulative effects of more than one significant restriction.

RDSPs are offered by financial institutions, such as banks and investment firms. The contribution limit for an RDSP is $200,000 lifetime with no annual contribution limit. Contributions are permitted until the end of the year the beneficiary turns 59.

RDSP earnings accumulate tax free until funds are withdrawn.

The major benefits of the plan, for either families or individuals with a disability, include:

- Significant contributions can be made early to benefit from tax free growth because there is no cap on annual contributions;
- Contributions may be made to a plan for a disabled child under the age of majority;
- Contributions may be made for an adult by any person, provided the beneficiary has approved the contributions in writing; and
- The Government of Canada will match contributions up to $3,500/year, capped at $70,000 until the calendar year in which beneficiary turns 49. They will also pay non-matching bonds up to $1,000/year for low and modest income beneficiaries, capped at $ 20,000.
- When RDSP funds are paid out, they do not affect benefits such as Old Age Security.

There are significant benefits available through an RDSP. Where an individual has a disability, inquiries should be made to determine if they qualify for this plan.