

The Grey List

Facing the Challenges of Qualifying for Disability Tax Credits, by Doug Lagasse

The application process for Disability Tax Credits (DTC) should be simple and straightforward but like many other things in life, reality can trump expectations. In the case of DTC applications, the best way to overcome the challenges of qualifying is to know that there are grey areas in the application process and to understand how they apply to your situation. This article is not about what types of medical conditions qualify for a DTC, but rather to enhance your awareness of the application process and your chances of qualifying.

In many cases, where the disability is severe and is unquestionably what the tax department calls a 'marked restriction on daily living activities', the challenges of qualifying will be less extreme.

This grey list is not theoretical but based on years of experience. Each topic was chosen because these were some of the repeated issues that have affected numerous applications. It is offered in the spirit that "getting it right the first time" is more important than ever. Recent federal government initiatives that support further tax reduction possibilities (potential income splitting) and the life enhancing new Registered Disability Savings Plan are dependent on a successful DTC application.

- Uniqueness

The effects of a prolonged medical condition that are experienced by each individual are unique and it is the effects of the condition that CRA will look at when reviewing an application. The grey area here is, "When does a disability become severe enough to qualify for a DTC?" How do good days and bad days matter? Does ability to work matter? How about likelihood of improvement? What matters most, is that the description of the effects of a condition are clearly stated.

- Doctors Role

Does your doctor, however well-intentioned, have a good understanding of what the tax department requires to successfully qualify a DTC applicant? Do you? The DTC application form (T2201) has changed numerous times in the last five years — once quite dramatically. Is your doctor up to date? Most doctors are extremely busy and that can't be good for their enthusiasm of completing forms. If the application form is vague, missing information or is contradictory, the tax department will likely respond by sending a questionnaire to the doctor asking for clarification in some areas. This should be avoided. The modern trend of 10 minute appointments does not help doctors to fully understand the effects of a patient's condition. Be sure your doctor understands your condition, knows how long you have been affected and that they have all of your medical records.

- Loving the Tax Department

Each tax centre has a tendency to have different management guidelines and protocols. As well, each officer who reviews the applications has a unique understanding of the intent of the legislation. Obviously, what that means is that the same application may be treated differently depending on whose desk it lands. To avoid gambling with your application, make sure to pay close attention to your application process, so that the decision for them is easy to make and it is the one you want! Then you can love them too.

- Sideways

Regretfully, even though a medical condition may normally qualify an applicant, DTC applications can be denied because of a technicality in the application process. Certainly, CRA allows for objections that can go as far as court challenges and usually this means your doctor would be involved. However, a way to look at it sideways is to re-apply in a succeeding year. Although it is now an uphill battle, this is allowed. CRA will be aware that you have previously been turned down and they will look very closely at your application and ask, "What is different this time?" In this scenario diligence in understanding what went wrong in the first place, will go a long way. Professional help is likely crucial.

- The Financial Results

A successful DTC application is the most important goal, but stay focused on maximizing financial results as well. Canada has a self assessing tax system and you must tell the tax department what to do or they may not take action. In this case, the grey area is assessing all the options of properly transferring the DTC credits (and refunds) to a family member if they cannot be used completely by the person with the disability.

- Grey Advice

Like a mouse asking a cat for the best place to hide, it may not always be in your best interest to depend solely on advice from the tax department. Calling the toll free line and asking for advice can be hit or miss. It is not that they intend to mislead you, but different interpretations can come into play. In other words, getting the correct answers not only depends on your questions, but whether the officer from CRA knows the right questions to ask you about your situation.

- Being Successful

The DTC is an important document. The most productive approach is to treat it as your responsibility, not your doctors. Always get a copy of your DTC application from your doctor or representative. The chances of success are improved by including supporting documentation

with your application. You or your representative (not your doctor) should submit your application.

Remember, the tax department has no choice but to focus on the details. Since a DTC application is most often a one-time application, it can mean significant value year after year, so your interests are best served with a similar focus. Leave as little to chance as possible.

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