

# THE TAX FACTOR

## CARING FOR A LOVED ONE — ATTENDANT CARE EXPENSES

**H**ave you been entrusted with the responsibility of caring for a loved one? If so, you have undoubtedly been confronted with some very difficult decisions. Whether your loved one is facing physical or mental challenges or is simply too old to care for themselves, these decisions are never easy. After careful thought and consideration, many families find that the best choice for their loved one is to involve an attendant who can provide one-on-one attention. If you have already made the decision to hire an attendant, or if you are in the process of determining whether this is right for your family, chances are you are uncertain how the expenses that you have incurred or will be incurring should be treated for tax purposes. This article will explain the tax treatment of attendant care expenses and will in turn provide you with some much needed clarity.

When discussing these non-refundable tax credits, we have made reference to the federal income tax rules. Note that the rules with respect to these credits may vary by province and territory. Please also note that any reference to spouse made in this article also refers to a common-law partner.

### Are attendant care expenses eligible for the medical expense tax credit?

As a bit of a background, and as outlined in the [2013-02 issue](#) of the *Tax Factor*, the medical expense tax credit is a non-refundable tax credit that allows you to claim eligible medical expenses that you incur for yourself, your spouse or your children who were under age 18 and dependent on you for support. You can claim all eligible medical expenses paid within any 12-month period ending in the year to the extent that the amounts incurred exceed the lesser of \$2,109 for 2012 (\$2,152 for 2013) and 3% of your net income. In the year of death, the period for which medical expenses are eligible for credit increases to any 24-month period that includes the date of death.

In addition, you can claim medical expenses for a dependent relative other than your spouse or dependent children including adult-age children or grandchildren and you or your spouse's parent, grandparent, brother, sister, uncle, aunt, niece or nephew, if resident in Canada at some point during the year. In this case, the annual amount that you may claim for each person in this group is limited to the eligible amounts paid in excess of the lesser of 3% of the dependant's net income and the threshold amount of \$2,109 for 2012 (\$2,152 for 2013). A separate calculation of eligible medical expenses must be prepared for each dependant relative that you support. You should note that beginning in 2011, the maximum allowable medical expense threshold for this group of other eligible dependants was removed. This means that as a caregiver, you are now able to claim a higher amount for any attendant care expenses that you have incurred for a dependant relative.

Eligible medical expenses can include those incurred both inside and outside of Canada and include amounts paid for medical or dental services, therapy, medications and private health insurance premiums, as well as attendant care expenses. Specifically in this regard, you can

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claim amounts that you have paid for attendant care or care in respect of yourself, your spouse or a dependant, in any of the following locations:

- self-contained domestic establishments, such as your home;
- retirement homes, homes for seniors or other institutions;
- nursing homes which provide full-time care;
- schools, institutions, or other places that provide care or care and training; and
- group homes in Canada.

In most cases, you can claim the entire amount that you have paid for full-time care in a nursing home and for care or the training and care at a school or institution. In all other cases, the fees claimed must be for remuneration paid for attendant care services. If you have paid attendant care expenses to an individual, make sure that the receipt that they have provided to you for their services includes their Social Insurance Number. Remember that remuneration includes salary and the employer's portion of Employment Insurance (EI) premiums and Canada or Québec Pension Plan (CCP or QPP) contributions that you may have paid in respect of that remuneration. You should note that for purposes of the medical expense tax credit, the remuneration cannot be paid to an individual under the age of 18 or the spouse of the person in respect of whom expenses are paid.

Eligible medical expenses will include remuneration that has been paid to attendants in an establishment for meal preparation, housekeeping services for a personal living space, laundry services for personal items, registered or certified health care services, social programming, personal maintenance services (such as for a hairdresser or manicurist) if included in the monthly fee, transportation and security for a secured unit.

Conversely, you cannot claim the cost of rent, food, cleaning supplies, operating costs of the facility and any salary and wages paid to administrative staff such as receptionists, groundskeepers, janitors and maintenance staff. To the extent medical expenses

have been reimbursed by an insurance plan, you can only claim the portion that has not been reimbursed.

You should also bear in mind that attendant care expenses may be eligible for the disability supports deduction as well. This deduction can only be claimed by a disabled individual, and cannot be transferred to another taxpayer. The disability supports deduction is a deduction from income for expenditures paid in the year by a disabled individual for assistive devices or supports, including attendant care, that enable the individual to work, to earn business income, or to attend high school, college, university or another designated educational institution. If the person you are supporting is able to claim the disability supports deduction, this will affect the expenses you can claim for attendant care medical expenses. Contact your BDO advisor to determine how best to take advantage of this deduction.

### **Are attendant care expenses eligible for the disability amount?**

Similar to the medical expense tax credit, the disability tax credit (or "disability amount") is also a non-refundable tax credit used to reduce income tax payable on your income tax return. You may claim this amount if you have had a severe and prolonged impairment in physical or mental functions. The amount of the disability credit is determined by multiplying the lowest personal tax rate of 15% by \$7,546 for 2012 (\$7,697 for 2013). The disability amount is intended to provide a credit for non-itemized disability-related expenses including certain attendant care expenses. Unlike the medical expense tax credit, the disability amount is only available to individuals who meet specific criteria, and is not based on actual expenses that you may have incurred.

You should note that the person with the disability must be resident in Canada at some time in the taxation year. In certain circumstances the disability credit may be transferred from your child, grandchild, parent, grandparent, brother, sister, aunt, uncle, nephew or niece, to you or to your spouse. To determine if you are able to have the claim transferred from a loved one to yourself, contact your BDO advisor.

### **Can you claim the medical expense tax credit or the disability amount or both?**

In order for the attendant care expenses that you have incurred in respect of yourself, your spouse or a dependant to be eligible for the medical expense tax credit, you must have either an approved Form T2201, Disability Tax Credit Certificate, on file with the Canada Revenue Agency (CRA) or a written certification from a medical practitioner that states that the services provided are necessary. Having said that, to qualify for the disability amount, the CRA must approve Form T2201. To help you understand your options when claiming attendant care expenses, we have re-produced a helpful chart provided by the CRA in their guide RC4064, Medical and Disability-Related Information 2012. Please note that the category "Attendant care provided in Canada" includes part-time attendant care.



# CURRENT ISSUES IN INCOME TAX AUDITS BY THE CRA

In our [2013-01 issue](#) of the *Tax Factor*, we discussed some of the ways you can get ready for an audit by the Canada Revenue Agency (CRA), should you face one. In this article, we will continue with this discussion and take a closer look at some of the current developments at the CRA with respect to how a business or taxpayer may be selected for a tax audit. As well, we will identify some of the larger income tax issues that the CRA has indicated it will focus its audit attention to. Finally, we will discuss recent updates to the CRA's 2013 letter-writing campaign.

Our 2013-01 article, "[Would you be ready for a tax audit?](#)", summarized the basics with respect to how the CRA selects a file for audit. To review, audit selection usually results from one of four methods. Primarily, the CRA's extensive computer data system generates numerous lists identifying those taxpayers with audit potential. As well, certain industries may be targeted if the CRA has identified that there is a common risk factor associated with that sector. Finally, the CRA may respond to leads it is given, and it may also audit businesses associated with other taxpayers currently under audit.

For large businesses, which are those businesses with annual revenues in excess of \$250 million, the CRA has adopted a more targeted approach with respect to audit selection – one that is based on an assigned rating of risk. The CRA refers to this as their large file program.

The CRA's large file sector is segmented based on a three-tiered assessment of risk: low, medium and high. Factors affecting a business's risk level may include a taxpayer's history of compliance, as well as data about a taxpayer collected through the CRA's internal databases. Information impacting risk may also be gathered by the CRA through *Tax Information Exchange Agreements* signed with other countries, as well as through Canada's participation in various other international forums. In addition to tax compliance history, other risk factors the CRA will look at include whether there are industry specific issues or complexities, unusual transactions, major acquisitions and disposals, international transactions, and whether the taxpayer has participated in aggressive tax planning.



A high-risk rating will likely lead to a higher probability of an audit, while a medium-risk rating might only subject a taxpayer to restricted audit procedures limited to specific concerns identified by the CRA. Low-risk entities appear unlikely to be audited. However, the CRA has indicated that it intends to evaluate all large business files again in the future, likely on an annual basis, to determine whether their risk rating has changed. Keep in mind that the CRA may also select taxpayer files for audit based on other criteria outside of this risk-based approach. While currently being phased in only in respect of its large files, we assume that the CRA may extend this risk-based audit approach to other taxpayers over time.

The CRA has acknowledged in recent conversations with industry groups that in the interest of transparency, it intends to engage in discussions with senior executives of large business taxpayers to inform them of their risk rating and to discuss what can be done to reduce this rating in the future. Further to any discussion the CRA may have with respect to risk, the CRA has also indicated its intention to focus taxpayers' attention on recent CRA initiatives towards its goal of enhancing the level of service provided to large businesses during the tax audit process. Specifically, the CRA has established a set of guidelines in order to help large businesses with setting up an "audit protocol" – an agreement that establishes a clear framework for the CRA and the corporation to follow during the audit process. The CRA is hoping that working towards this initiative will support its long-range goals of increasing efficiency in the audit process, while also creating a "more co-operative, open, and transparent relationship" with taxpayers. Other initiatives, including real-time and concurrent audits, are also being offered to large businesses.

Another area where the CRA will focus tax audit work is with respect to high net worth taxpayers. Although the selection criteria is subject to variation, the CRA has made reference to taxpayers with a net worth in excess of \$50 million, with 30 or more related tax entities. Entities include corporations, trusts, partnerships, joint ventures, private foundations and charities. In this case, the CRA's assumption is that large potential sources of tax revenue could be at risk.

In addition to identifying taxpayers with specific risks or just significant taxpayers in general, the CRA is taking steps to identify what types of income tax issues it currently believes are "high-risk" transactions. These issues are usually the ones that the CRA focuses on during the course of its audits, and may lead the CRA to undertake an audit of a particular taxpayer and even those businesses and corporations with whom a taxpayer may be associated. Recently, the CRA has identified the following tax issues as being transactions of particular interest:

- Artificial losses
- Unreasonable loss utilization planning
- Loss trading
- Surplus strips, meaning the removal of corporate surplus without paying dividends
- Offshore bank accounts held by individuals

- Donation arrangements
- International transactions
- RRSP appropriations
- “Abnormal” increases in Tax-Free Savings Account (TFSA) values
- Interprovincial tax planning
- Kiddie tax planning

The fact that the CRA is reviewing these issues doesn't automatically mean a reassessment will be issued. Rather, these are situations where the CRA wants to focus its audit activity. On donation tax shelters, the CRA will put on hold the assessment of returns for individuals where a taxpayer is claiming a credit by participating in a gifting tax shelter scheme until the tax shelter audit is complete. This new policy will apply to 2012 tax returns.

Another signal that the CRA is focusing on a particular industry segment or group of taxpayers for audit is through its annual letter-writing campaign. Essentially, the CRA began a campaign in 2010 of sending letters to Canadian taxpayers as a means to support its emphasis on helping individuals and small businesses to “better understand their tax obligations and to encourage them to correct any inaccuracies in their past income tax and benefit returns”. This initiative is focused on individuals and small- to medium-sized enterprises, as opposed to the large business sector discussed above.

Just this past December, the CRA indicated that in 2013 it plans to send out approximately 33,000 letters to taxpayers who earn self-employment income, receive rental income, or are employees who have claimed expenses related to their employment on their prior years' tax returns.

These “education letters” have been a significant source of confusion for taxpayers. If you receive a letter, it will explain the CRA's view on the issue in question, but it is also a warning that you may be selected for an audit. For some taxpayers, this is an opportunity to ensure they bring any unresolved issues to the CRA's attention before an audit commences. For the large majority of taxpayers who are tax compliant, they need to understand that they are simply reporting a source of income or a tax deduction or credit where the CRA has encountered tax compliance issues in the past. In particular, the CRA is not suggesting that these taxpayers specifically are not compliant. If you receive a letter from the CRA as a result of this year's campaign, discuss with your BDO advisor.

▶ The CRA has many tools at its disposal to select taxpayers for audit. If you receive a letter from the CRA indicating that you may be selected for audit, contact your BDO advisor immediately.

## CHANGES TO CONTROLLED AND NOT-CONTROLLED FOREIGN AFFILIATE REPORTING — T1134



Earlier this year, the Canada Revenue Agency (CRA) announced that Forms T1134A, *Information Return Relating to Foreign Affiliates That Are Not Controlled Foreign Affiliates*, and T1134B, *Information Return Relating to Controlled Foreign Affiliates*, have been combined into one form: **Form T1134, *Information Return Relating to Controlled and Not-Controlled Foreign Affiliates***. The new Form T1134 is in Summary/Supplement format which is designed to eliminate duplication of information about the reporting entity. This means that where a Canadian reporting entity has more than one foreign affiliate, one T1134 form can be used to report all foreign affiliates, with a separate supplement for each foreign affiliate. Common information about the Canadian reporting entity is not duplicated as was previously the case when a separate form was required for each foreign affiliate.

This new form is to be used for taxation years that begin after 2010. The form is due within 15 months of the end of the reporting entity's tax year (or fiscal period in the case of a partnership). Reporting entities that have already filed using the previous versions of the form will not be required to re-file using the new version, and the CRA will accept old-format forms until June 30, 2013. Currently, because the form cannot be electronically filed, it must be paper-filed.

Most importantly, you should note that there has been a change in the administrative relief for filing requirements previously provided for dormant or inactive foreign affiliates. The new form now limits the administrative relief for dormant or inactive foreign affiliates to situations where the total cost of investment in all foreign affiliates is less than \$100,000.

To learn more about these and other changes made to Form T1134, contact your BDO advisor.

The information in this publication is current as of March 1, 2013.

This publication has been carefully prepared, but it has been written in general terms and should be seen as broad guidance only. The publication cannot be relied upon to cover specific situations and you should not act, or refrain from acting, upon the information contained therein without obtaining specific professional advice. Please contact BDO Canada LLP to discuss these matters in the context of your particular circumstances. BDO Canada LLP, its partners, employees and agents do not accept or assume any liability or duty of care for any loss arising from any action taken or not taken by anyone in reliance on the information in this publication or for any decision based on it.

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