

DISABILITY ALERT

DISABILITY ALERT is a commentary on topics of current interest – usually topics relating to planning for individuals with disabilities and changes to current tax and social assistance legislation. Professional advice should be obtained before acting on any of this information.

DISABILITY TAX CREDIT – ADAPTIVE FUNCTIONING

Indirectly, CRA has broadened its definition of *mental functions* for the Disability Tax Credit (DTC) criteria in form T2201 and the attached Information Guide. This fairly recent change may not have come to the attention of taxpayers and it is important.

The Income Tax Act itself has not changed but the CRA publication wording has broadened as far as *mental functions* are concerned. To me it opens up an opportunity for individuals with certain mental issues to now apply for the DTC whereas it was more difficult under the previous wording.

ACTIVITIES OF DAILY LIVING

The DTC is available to people who are *markedly restricted* in one or more of the following activities of daily living:

- Speaking
- Hearing
- Walking
- Eliminating (bowel or bladder function)
- Feeding
- Dressing
- Mental functions necessary for everyday life

FORM T2201 AND ITS INFORMATION GUIDE

Better wording is now used throughout the T2201 Information Guide and the application form itself. For example, each of the seven activities is supplied with some good examples and there is even a helpful self-assessment questionnaire. Form T2201 is shorter and laid out better for medical practitioners to complete and applicants to understand. Cheers for the CRA.

DTC OPENS DOORS TO OTHER BENEFITS

The DTC provides a tax credit of about \$1,700 a year to people with a disability and their families and opens the door to several other tax benefits and non-refundable tax credits. This **Alert** will not go into those details because there are too many to discuss here. However, there are two that warrant special attention because they are highly beneficial to individuals with disabilities:

- Qualified Disability Trust (graduated tax rates for income of a trust arising on death)
- Registered Disability Savings Plan (up to \$90,000 in tax free government support)

DTC CHANGE

When I recently read the CRA material I became excited about the new wording describing mental functions because it differs from what was there a few years ago. Previously, the CRA allowed the DTC for the following three categories of mental functions:

- **Memory**
- **Goal setting**
- **Problem-solving, goal setting and judgment, taken together**

I suspect that many taxpayers have had a hard time convincing CRA that they met the second test or perhaps even the third one. Form T2201 has now changed *goal setting* in criteria two to *adaptive functioning* and leaves goal setting as part of criteria three. Presto! A much broader criteria has been added.

Form T2201 now describes the three types of mental functions as follows:

- **Adaptive functioning** (for example, abilities related to self-care, health and safety, abilities to initiate and respond to social interaction, and common, simple transactions)
- **Memory** (for example, the ability to remember simple instructions, basic personal information such as name and address, or material of importance and interest)
- **Problem-solving, goal-setting, and judgment, taken together** (for example, the ability to solve problems, set and keep goals, and make appropriate decisions and judgments)

COMMUNITY LIVING CENTRE MATERIAL

In the course of my review I found some material published by Community Living Centre – British Columbia. It defined **adaptive functioning** as *how well a person handles common demands in life and how independent they are compared to others of a similar age and background*. The material assesses adaptive functioning in three areas:

- Practical skills
 - How you manage your home and personal care
 - How you manage money
 - How you use the telephone
 - How you get from place to place
 - How you stay safe and healthy
 - How you follow schedules and routines
 - How you work
- Social skills
 - How you behave, talk to and understand others
 - How you feel about yourself
 - How you solve problems
 - Whether you make your own mind up about things or whether other people influence you
 - How you follow rules, obey the law and whether you are easy to take advantage of
- Conceptual skills
 - Are you able to plan and organize?
 - Can you use abstract concepts like time, money, numbers?

If [an individual has] significant limitations in adaptive functioning, it means that: you may do some things as well as or better than others who are the same age or background (for example ability to remember

numbers or play the guitar) and at the same time you have extreme difficulty coping with most other areas of life.

This is helpful information but does not exactly align with CRA's criteria. Nevertheless, its useful in preparing your application if it involves adaptive functioning. I suggest that an adaptive functions assessment be prepared and submitted with form T2201.

CONCLUSION

Page 5 of form T2201 indicates that it is mandatory that *you [doctor] describe the effect of your patient's impairment on his or her ability to perform each of the basic activities of daily living that you indicated are or were markedly or significantly restricted.* I also suggest that the applicant attach a summary from their personal knowledge and perspective.

To support your application, your doctor should submit any medical information on file such as copies of medical reports and diagnostic tests. The applicant may also have additional medical information and this should be included as well if it could be helpful.

Do the very best T2201 application that you can and add supporting information that you have in your files. Applications can be rejected because they are missing details and it's a complicated and time consuming process to file an appeal.

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