

Make the most out of government disability help

Sometime ago I began a fruitful dialogue with Kenneth C. Pope, a lawyer in Ottawa. He is one of the most experienced legal practitioners in Canada, providing services to families with a member who has a disability. He has focused his professional career to help them put Henson Trusts in place.

I recently interviewed Pope. We discussed Henson Trusts, the Ontario Disability Support Program (ODSP) and other tax credits that families and disabled people are often unaware of but could benefit from.

Merrick: *What happens if a family member with special needs is receiving disability support benefits, and then he or she is left an inheritance, will that inheritance be considered an asset and disqualify them from benefits?*

Pope: Yes, the family member with an inheritance will not be eligible for benefits such as the ODSP unless special arrangements are made in the parents' will.

Merrick: *Are there any solutions for parents and guardians of people with special needs that will allow them to leave an inheritance and not disqualify the disabled individual from receiving government disability benefits?*

Pope: Yes, the only real solution to this inequity is a Henson Trust, created by the parents' will. Only available since 1989, when the case after which it is named was upheld by the Ontario Court of Appeal, it places estate assets in the care and control of a trustee to be administered for the benefit of a beneficiary. Inheritances placed in a properly prepared trust are not the asset of the child and will not affect provincial benefits.

Merrick: *What is the motivation to set up a Henson Trust?*

Pope: Many families have members who require assistance in handling their daily affairs, regardless of their other abilities. They often benefit from guidance in handling large sums of money or significant assets, temporarily or on an ongoing basis. Some beneficiaries may be unable or unwilling to seek guidance, and may at some point be left without care unless special provisions are put in place.

To solve these problems a Henson Trust must be created, during a parent or guardian's lifetime (inter vivos) or according to the terms of a parent or guardian will (testamentary). These trusts are invaluable in planning for a child's care when a parent or guardian is no longer there.



MERRICK WEALTH

By
Peter Merrick

Merrick: *What is ODSP?*

Pope: ODSP stands for the Ontario Disability Support Program. The Ministry of Community and Social Services describes it as program for people with disabilities who are in financial need, or who want and are able to work and need support. Other provinces have similar programs

Merrick: *Why do some people receiving Ontario disability benefits receive \$730 each month while others receive \$959?*

Pope: The \$730 is the 'room and board' allowance. If a child lives with the parent they will automatically be slotted in for this amount. The \$959 is composed of \$427 for shelter/rent and \$532 in supplementary benefits for everything else.

Merrick: *Do you recommend strategies that will allow individuals to receive the full amount?*

Pope: A simple method is to set up a lease arrangement with the parents, having the parents charge at least the shelter allowance amount. The benefits should then be increased.

You can deduct your expenses only if you incur them to earn income. In certain cases, you may ask your son or daughter, or another relative living with you, to pay a small amount for the upkeep of your house or to cover the cost of groceries. You do not report this

amount in your income, and you cannot claim rental expenses. This is, in fact, a cost-sharing arrangement, so you cannot claim a rental loss. The child cannot then make use of the 'tenant property tax' credit.

If the child is simply unable to shop or cook, even with support, then the increased amount may be unavailable on the basis that the food and lodging is provided by the parents. This turns on the facts of each situation.

Merrick: *Many people have heard about the 'caregiver credit' used by some families to reduce taxes. When does this apply?*

Pope: If a child is over 18 years of age, on ODSP, and resides full-time or substantially all of the time with the parent or another family member, then the family member qualifies as a caregiver of that child. They can then claim the 'caregiver tax credit' and pay approximately \$500 less in taxes than they otherwise would have. This credit applies in each ongoing year in which these circumstances prevail.

The credit came into effect in 1998, and can be back-filed to that year if applicable. This would return approximately \$4,500 in taxes for a back-filing from 2006. This tax credit applies in the circumstances of any adult family member, not just children, for example an aged parent who survives on a small pension and who has been released from hospital after an operation.

Merrick: *What is the 'disability tax credit'? I know some parents save on taxes by using this tax credit and others have never heard of it.*

Pope: This tax credit is available whenever a child of any age is markedly restricted in the activities of daily living on an ongoing basis. The restrictions can be cognitive, developmental, physical or mental, or a combination of disabilities.

This tax credit must be applied for and approved by filing a T-2201 form with the Canada Revenue Agency.

Once approved, the credit is transferred from the child who qualifies to a parent or other supporting person. The tax credit is only useful to someone who pays taxes, and in many cases the person with the disability has no taxable income.

The credit was recently increased, and now returns \$1,500 each year to a taxpayer who makes use of it. It can presently be back-filed to 1996, back 10 years on a rolling annual basis.

** Note: In years prior to 2001 the tax credit only returns \$1,000 per year, as that was the previous allowance. Back-filing for the full period, if applicable, in 2006, would return approximately \$14,000 to the taxpayer.*

Henson Trusts, disability benefits and tax credits are special arrangements to ensure that loved ones of clients are given the extra care they deserve, and that inheritances will not be wasted. One can just imagine the potential liability someone who puts himself out in the public domain as a client's adviser could face if he ignores the options available for clients with children who have special needs.

If you believe a client would benefit from adopting any of the strategies mentioned above it is important to seek specialized legal counsel. The proper financial planning professionals will set up and manage the right plan.

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Firm values flexible service

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article), and sure enough, PSI is on top of it. Their plan is to launch this option by January. They can offer clients flex benefits, and accommodate up to 200 deductions. Online secured access is offered to clients, and it allows them to pick and choose reporting options or make changes on the spot. It is very similar to having the convenience of payroll software, but with the added luxury of a service.

But here is where the flexibility comes into play. PSI can sell you their entire free standing Suites payroll software system, or they can do just the deposits, or just the reports, or even take over as the entire payroll department for a

week to cover staff vacation. Basically, whatever scenario you can come up with, they'll jump through hoops to accommodate it.

PSI's costs seem to be around the industry standard. The low end for them to process your payroll is around \$1.25 per, and it can go up as high as \$7 if you opt for a total package with third-party remittance, flex benefits and all the toys.

I asked Schneiders and Palmieri what the future holds in store for PSI. They see group home and auto insurance as possible options for their clients, as well as health and wellness. Internally, they seem to walk the walk, even following the wellness philosophy of having a dog in the office. Her name is Mimi and I'm told she is very cute.

So if you need one company that can manufacture 40,000 snowshoes, build a fleet of steamrollers and cater your corporate meeting with fantastic sushi, try Spaaztech. However, if you have some payroll and HR needs that are a little off the beaten path, I'm sure PSI Employer Services Inc. can help.

PSI Employer Services can be reached at 905-631-1403 or online at www.psipayroll.com.

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