



David Toone  
Director, Contract and Risk Management  
Community Living British Columbia  
7<sup>th</sup> Floor 1200 West 73<sup>rd</sup> Avenue  
Vancouver BC V6P 6G5

Your file / Votre référence

Our file / Notre référence

2016-067707  
S. D'Angelo

March 28, 2018

Dear Mr. Toone,

**Re: Payments for In-Home Care of Developmentally Disabled Persons**

We are writing in response to your letter of November 23, 2016, requesting our views whether payments made by Community Living British Columbia (“CLBC”)<sup>1</sup> directly, or indirectly through third-party agencies (the “Agencies”), to individuals other than trusts, (the “Caregivers”) to provide services under the BC Home Sharing Program to adults with developmental disabilities<sup>2</sup> (the “Cared-for Individuals”) would meet the requirements under paragraph 81(1)(h) of the *Income Tax Act* (“Act”).

Home sharing under the BC Home Sharing Program is a residential option in which a Cared-for Individual, who has a developmental disability, shares a home with a Caregiver who is contracted to provide ongoing support. Homes may be owned or rented by the Caregiver or Cared-for Individual and home sharing may be arranged by Agencies or directly by CLBC. You have provided the following additional information:

- The payments under the BC Home Sharing Program are made under a program provided for by a provincial law (i.e., the CLAA).
- The payments under the BC Home Sharing Program are made directly by CLBC, or indirectly by CLBC through Agencies, to the Caregivers for the benefit of the Cared-for Individuals.
- The Cared-for Individuals are not the Caregivers’ spouse or common-law partner or related to the Caregiver or the Caregivers’ spouse or common law partner.

---

<sup>1</sup> CLBC was created by subsection 2(1) of the *Community Living Authority Act* (British Columbia) (the “CLAA”) and subsection 3(1) of the CLAA states that the CLBC is for all purpose an agent of the Provincial Government of British Columbia.

<sup>2</sup> “Developmental disability” is defined in section 1 of the CLAA to mean significantly impaired intellectual functioning that: (a) manifests before the age of 18 years; (b) exists concurrently with impaired adaptive functioning; and (c) meets other prescribed criteria.

.../cont’d

- No family allowance under the *Family Allowance Act* (Canada) or any similar allowance provided for by provincial or territorial law is payable in respect of the Cared-for Individuals for the period for which payments are made under the BC Home Sharing Program.
- The Cared-for Individuals reside in the Caregivers' principal place of residence, or the Caregivers' principal place of residence is maintained for use as the Cared for Individual's residence, during the period for which the payments are made.
- Cared-for Individuals must have developmental disabilities to be entitled to BC Home Sharing Program benefits. CLBC sets eligibility criteria for CLBC support and services by reference to an implicit, but nevertheless compelling, financial-based test for basic BC Home Sharing Program eligibility. An individual with developmental disabilities would ordinarily have little if any income or assets.
- CLBC develops individual support plans for each Cared-for Individual using a Guide to Support Allocation ("GSA") to determine disability needs. The GSA considers the appropriate level of support required by the Cared-for Individual in each of 10 different areas and is assigned an overall GSA rating. This overall GSA rating will then be used to determine the services to be provided by the Caregivers and the financial needs of the Cared-for individual.

#### Our Comments

This technical interpretation provides general comments about the provisions of the *Income Tax Act* (the "Act") and related legislation. It does not confirm the income tax treatment of a particular situation, but is intended to assist you in making that determination. The income tax treatment of transactions will only be confirmed by this Directorate in the context of an advance income tax ruling request submitted in the manner set out in Information Circular IC-70-6R7 Advance Income Tax Rulings and Technical Interpretations.

Paragraph 81(1)(h) of the Act excludes from income social assistance payments that an individual caregiver (the "caregiver") receives for the benefit of another individual (the "care-recipient") under the caregiver's care. The care recipient can be either a child or an adult. The amount the caregiver receives must meet all the following conditions to be excluded from income:

- The payment is a social assistance payment ordinarily made on the basis of a means, needs, or income test.
- The payment is made under a program provided for by a federal, provincial or territorial law.
- The payment is received directly or indirectly by the caregiver for the benefit of the care recipient.
- The care recipient is not the caregiver's spouse or common-law partner or related to the caregiver or the caregiver's spouse or common-law partner.
- No family allowance under the *Family Allowance Act* or any similar allowance provided for by provincial or territorial law can be payable in respect of the care recipient for the period for which the social assistance payment is made.

.../cont'd

- The care recipient resides in the caregiver's principal place of residence, or the caregiver's principal place of residence must be maintained for use as the care recipient's residence, during the period for which the payment is made.

The term "social assistance" is not defined in the Act. Generally, social assistance means aid provided by a government or government agency on the basis of a need. It does not matter if the payments are made directly by a government or government agency or if they are received indirectly through another organization, be it a not-for profit or for profit entity.

According to you, the payments by made CLBC under the BC Home Sharing Program are not determined by an actual financial means, needs or income test of the individual with the developmental disability but rather through a developmental assessment. However, it is implicit that individuals who receive funding under the BC Home Sharing Program would not pass a means, needs or income test as they are not capable of financially supporting themselves or living independently. Consequently, it is our opinion that the requirement under paragraph 81(1)(h) for the social assistance to be ordinarily based on a means, needs or income test, is satisfied.

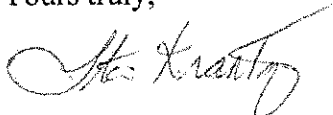
For the purpose of paragraph 81(1)(h) of the Act, it does not matter if the social assistance payments are made directly by a government or government agency or if they are received indirectly through another organization. Therefore, if the payments made to Caregivers are for social assistance, the fact that these payments are made directly by CLBC or indirectly through Agencies will not disqualify an amount that would otherwise qualify under paragraph 81(1)(h).

As noted above, the care recipient must reside in the caregiver's principal place of residence, or the residence must be maintained for the care recipient's use. An individual's principal place of residence is the place where the individual regularly, normally or customarily lives. This requirement is not met in situations where the caregiver and the care recipient do not share common living areas in the residence.

Therefore, provided that all the requirements under paragraph 81(1)(h) outlined above are met, it is our view that payments received by Caregivers made by CLBC under the BC Home Sharing Program would qualify for the exemption under paragraph 81(1)(h) of the Act.

We trust our comments will be of assistance.

Yours truly,



Lita Krantz, CPA, CA  
Manager  
Tax Credits and Ministerial Issues  
Business and Employment Division  
Income Tax Rulings Directorate