Disability tax credit

Evaluation of recent experience

Department of Finance

June 1992

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SUMMARY AND CONCLUSIONS

INTRODUCTION

In the 1985 budget, the Minister of Finance proposed changes to the Income Tax Act which significantly broadened access by disabled people to the disability tax credit (DTC). The purpose of this evaluation is to assess the experience to date under the new eligibility criteria.

BACKGROUND TO THE EVALUATION

The expansion of the DTC is the most important in a series of initiatives through which the Canadian tax system has long recognized the special needs and circumstances of disabled people. Until 1986, the disability deduction (the precursor of the DTC) could be claimed by only two groups of disabled people - those who were blind or confined to a bed or wheelchair. In that year, the federal govemment significantly broadened the eligibility criteria, and hence the number of Canadians who qualify for assistance by extending it to all who, by reason of a "severe and prolonged mental or physical impairment", are "markedly restricted in activities of daily living".

The DTC gave a qualifying taxpayer a reduction of $565 in 1989 in federal income tax, and about $876 in combined federal and provincial income taxes. The total federal and provincial tax cost of the credit is estimated to have been about $230 million for 1989; of this, the federal government's share is about $150 million. The February 1991 budget significantly increased the federal amount of the DTC - from $575 to $700 beginning in 1991. The combined federal and provincial credit is now about $1,085.

THE DEFINITION OF DISABILITY

Canada has departed from common international practice in measuring disability for tax purposes. None of the 15 other OECD countries surveyed uses an "activities of daily living" criterion to determine eligibility. They base eligibility on either ability to work or a specified list of impairments and conditions that are relatively easy for the medical profession to verify. However, the criterion adopted by Canada improves equity in the tax system by placing all severely disabled persons on an equal footing with respect to their access to the DTC.

POTENTIAL AND CURRENT DTC RECIPIENTS

By matching DTC *Guidelines* as closely as possible with data from Statistics Canada's Health and Activity Limitations Survey, the study estimated the size of the population of potential DTC recipients to be in the range of 360,000 to 490,000 in 1990.

The actual number of recipients in 1990 is expected to be about 410,000. The number of DTC recipients has grown rapidly from 85,000 in 1985, before the definition was expanded and 180,000 in 1986, the year that the new definition was introduced. Although individuals over age 65 represent only about 40 per cent of DTC recipients, they account for nearly 60 per cent of the increase in claims since 1986. These facts suggest that it has taken several years for many disabled individuals and their physicians to become informed about the new eligibility criteria.

ADMINISTRATION OF THE DTC

The study reviews the experience since 1986 in administering the expanded definition of severely disabled, including compliance studies conducted by Revenue Canada, Taxation and several court cases in which taxpayers challenged the rejection of DTC claims.

Determining eligibility for the DTC under the new definition is inherently difficult. Along a continuum of disability levels, a cut-off point must be identified as the point at which an individual becomes "markedly restricted in the activities of daily living". Similar cut-off points must be determined for a variety of different physical or mental impairments for cases of multiple impairments, and for individuals who vary in age, vitality and other characteristics.

Under an administrative system in which eligibility is determined and certified by family physicians, much depends on the development and communication of guidelines which illustrate the intended application of the definition.

Since the concept of markedly restricted in the activities of daily living is new to physicians (as compared, for example, to the concept of inability to work that defines eligibility for most wage replacement plans), it must be expected that it would take several years to achieve a reasonable and satisfactory degree of uniformity in the application of the definition. In this context, a Revenue Canada assessment of a sample of DTC claims indicated that about 15 per cent of cases did not meet the intended eligibility criteria. On

the other hand, as has already been noted, the strong growth in the number of claims since 1986, particularly among the elderly, suggests that it has taken time for many eligible recipients and their physicians to learn about the new eligibility criteria.

The several court cases available for review were instructive in pointing out weaknesses in the administrative process. In allowing some appeals by taxpayers, judges indicated that they would not consider or be bound by guidelines that are not included in the Income Tax Act or regulations. The cases also pointed to some weaknesses in the DTC application form (T2201) and guidelines such as a potential for inconsistency in a doctor's certification on different parts of the form. In general, the cases show the importance of a continuing process of discussion between the government departments (Revenue Canada, Health and Welfare Canada and Finance), physicians and disabled groups to improve communications materials and to ensure that there is a common understanding of how the definition is meant to apply in various situations.

The issue of other, more centralized, processes for eligibility determination was raised. It is estimated that the administrative cost of a centralized system modeled on the Canada Pension Plan disability program could cost up to 20 cents for each dollar of DTC benefits. Thus, the study concludes that attention should be focused on monitoring and improving the consistency of eligibility determination under the current administrative structure.

COMPENSATION FOR DISABILITY-RELATED EXPENSES

Comparison of the tax regimes in 16 OECD countries indicates that the Canadian system for itemizing medical and disability-related expenses under the medical expenses tax credit (METC) is one of the most generous in the world. Canada has one of the lowest expense thresholds of all countries surveyed and permits itemization of most costs that can be itemized in other countries. Nevertheless, only about 10 per cent of DTC recipients make any METC claim. The low use of itemization appears to be due primarily to the broad coverage of disability expenses by government health insurance and other non-tax programs.

The DTC plays a complementary role to the METC in compensating for disability-related costs. First, an estimated 45 per cent of the expenses of those with severe disabilities are not eligible to be itemized despite the comparative generosity of the METC. These are generally excluded because the disability-related component of expenditure is difficult to separate

from the consumption-related component. The DTC avoids this problem since the amount of assistance does not vary with the magnitude of expenditures.

The DTC more than makes up for the excluded categories of expenses and the effects of the minimum-expense threshold of the METC. It provides aggregate compensation that is substantially greater than the tax assistance severely disabled people would receive if all their disability-related expenses were able to be itemized under the METC and if the minimum-expense threshold for the METC were removed.

The DTC provides assistance for expenses beyond the rate provided by the METC, which for federal and provincial income tax combined is limited to about 26 per cent of the expenses. Indeed, the combined assistance provided by the DTC and the METC in 1988 was only slightly below the total amount of disability-related expenses incurred by DTC recipients. The increase in the credit to $700 in 1991 will further increase the assistance provided by the credit in comparison to the disability-related costs incurred by severely disabled persons.

As a fixed-amount credit, however, the DTC must be a somewhat blunt instrument for providing expense compensation; its adequacy varies considerably among severely disabled people. For instance, about 50 per cent of those with severe disabilities who receive the credit incur no disability-related expenses; but about 17 per cent incur expenses greater than the amount of the DTC. This latter number will be substantially reduced by the 1991 budget changes.

SUMMARY OF RECOMMENDATIONS

1. Continue to monitor and improve the consistency of eligibility determination under the current administrative structure rather than moving to another structure such as centralized eligibility determination.

2. Codify the definition of "markedly restricted in the activities of daily living".

3. Eliminate inconsistencies on the T2201 certification form.

4. With Health and Welfare Canada, continue to consult with physicians and disabled groups to improve communications materials and ensure that there is a common understanding of how the definition should apply in various situations.

FOLLOW-UP

In the wake of the early court cases, and of the preliminary findings of the present evaluation, several steps have been taken. First, and most important, the 1991 budget announced that the details of the definition of "markedly restricted in the activities of daily living" would be codified in the Income Tax Act. Second, the T2201 form was amended to remove the inconsistency identified in the courts. Third, consultations with disabled groups and physicians have begun that are aimed at reviewing the application of the definition to cases involving different kinds of impairments.

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CHAPTER 1

INTRODUCTION

PURPOSE OF THE STUDY

Significantly broadened eligibility criteria for the disability tax credit (DTC) have now been in effect for five years. Before 1986, an individual had to be blind or confined to a bed or a wheelchair to be eligible for the deduction that preceded this credit. In that year the eligibility criteria were expanded to encompass all individuals who are "markedly restricted in activities of daily living". This was a major initiative, intended to give all those with severe and prolonged disabilities access to the credit.

The purpose of this evaluation is to assess the experience to date under the new eligibility criteria. The DTC has evolved over a long period during which there have been substantial changes in both tax measures and other programs affecting disabled people. The evaluation reviews the effectiveness of the DTC in the context of this changing environment.

BACKGROUND: RECENT FEDERAL GOVERNMENT INITIATIVES TOWARD DISABLED PEOPLE

There is increasing public awareness of the difficulties confronting disabled people in Canada. About 3.3 million Canadians, more than 13 per cent of the total population, were recorded as having disabilities in the 1986 census. With more than three out of four disabled persons earning less than $10,000 in 1986, they are among the poorest members of our society. In addition, less than 50 per cent of working-age disabled adults participate in the paid labour force, compared with almost 80 per cent of those without a disability.

The United Nations designated 1981 as the International Year of Disabled Persons and the decade 1983 to 1992 as the Decade of Disabled Persons.[1] These events have helped to heighten public sensitivity to the many obstacles that prevent disabled people from participating fully in employment, housing, education and other areas of everyday life. In Canada, the need for coordinated action on these fronts by all levels of government and all segments of society has been highlighted in the reports of several parliamentary committees — including the influential *Obstacles* report in 1981 — and the

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1. See ***World Program of Action Concerning Disabled Persons*** (United Nations, 1983).

Report of the Abella Royal Commission.[2] Three central themes have emerged from the many specific recommendations of these enquiries. First, there is a need for improved coordination of the many programs and policies affecting disabled people. Second, better information is required for analysis of, and remedial action to deal with, the many problems confronting disabled people. Finally, priority should be given to policies that are aimed at integrating disabled people into the mainstream of society and fostering their ability to function independently.

Many recent initiatives of the federal government have been directed toward these three general objectives. In 1985, the Status of Disabled Persons Secretariat was established in the Department of the Secretary of State. An objective of the Secretariat is to coordinate initiatives undertaken by departments and agencies of the federal government to improve social and economic opportunities for all disabled people. In 1989, the Standing Parliamentary Committee on Human Rights and the Status of Disabled Persons was created. An important mandate of this Committee is to assess, propose, and monitor initiatives aimed at the integration of disabled persons in all sectors of Canadian society.

The acquisition of comprehensive up-to-date information on disabled people has also been a priority of the federal government because of the need for such information in designing effective policies. To this end, the government directed Statistics Canada to build an extensive data base on disabled Canadians through surveys such as the Canadian Health and Disability Survey, that was conducted in 1983 and 1984, and the Health and Activity Limitation (HAL) Survey that was carried out in 1986. The latter survey is the main source of data used in our evaluation. The government has allocated over $8 million in funds for a second HAL Survey as a follow-up to the 1991 Census.

Successive federal governments have taken many specific initiatives in the last decade to foster the goal of independent living for disabled people. Among the most notable of these initiatives was an amendment in 1983 to the *Canadian Human Rights Act* prohibiting discrimination on the grounds of disability. Since 1983, affirmative action programs have also been introduced to promote the employment of disabled persons in the federal public

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2. See, for example, ***Obstacles*** (Canada, House of Commons, 1981); ***Report of the Royal Commission on Equality in Employment,*** 1984; ***Equality For All*** (Canada, House of Commons, 1985); and ***A Consensus for Action: The Economic Integration of Disabled Persons*** (Canada, House of Commons, 1990).

service, in the federally-regulated private sector, and in businesses supplying goods and services to the federal government.

The provincial governments have primary jurisdiction over many programs directly affecting disabled people, such as health care and social assistance, although the federal government shares a high proportion of the costs of health care and social assistance programs through Established Programs Financing and the Canada Assistance Plan. All provincial social assistance programs have features designed to provide special benefits to low-income disabled people, such as higher income and asset exemption levels, special disability allowances, and provision of subsidies for drugs or aids and devices required because of a disability.

For its part, the federal government has initiated or enlarged many direct expenditure programs in recent years. For example, the Canada Mortgage and Housing Corporation provides assistance for home renovations to improve accessibility for disabled persons. Transport Canada has also established programs to promote accessible transportation in areas of federal jurisdiction. These programs include research and development of prototype technology and grants to private organizations to purchase vehicles to transport disabled persons in small urban and rural areas. Perhaps most importantly, the Canada Pension Plan has recently been enriched to improve benefits to those who become unable to work owing to disability. In 1987, the flat-rate portion of the monthly benefit was increased from $91 to $243.[3]

The Canadian tax system has long recognized the special needs and circumstances of disabled persons. In the last decade, several important additional income tax measures affecting disabled people have been introduced. Several of these tax measures have the specific objective of encouraging and facilitating independent living by disabled people. For example, a special tax deduction was introduced in 1989 for the costs of a part-time attendant whose services are required to enable a disabled person to go to work. Also, many additional types of expenses that are incurred by disabled persons, including expenditures on home modifications such as the installation of access ramps, have been made eligible for tax relief under the medical expenses tax credit.

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3. In addition to the flat-rate portion, there is also a component based on past contributions. In 1989, the maximum monthly pension was $277 for the flat-rate portion and $433 for the contributory portion for a total of $710.

THE DISABILITY TAX CREDIT

Perhaps the most important tax initiative with respect to disabled people in the last decade relates to the disability tax credit. In 1990, the DTC provided a reduction in federal and provincial taxes of about $876, $565 of which was the federal portion. It has its origins in the disability deduction, which was converted into a credit in 1988 as part of tax reform. The disability deduction can, in turn, be traced back to the special deduction for blind persons that was introduced in 1944. In 1949, this deduction was extended to persons who were confined to a bed or a wheelchair. The eligibility criteria were not changed again until 1986, when they were substantially broadened to include any individual certified by a medical practitioner to have a "severe and prolonged mental or physical impairment" and who was "markedly restricted in activities of daily living". The new definition was intended to place all severely disabled persons on an equal footing by describing general conditions equivalent to being blind or confined to a bed or a wheelchair.[4]

In 1985, the last year for which the old eligibility criterion was in effect, about 85,000 taxpayers claimed the disability deduction. Under the new eligibility criteria, the number of claimants grew from 180,000 in 1986 to 256,000 in 1987, 307,000 in 1988, 351,000 in 1989, and based on provisional information, 410,000 in 1990. The total federal and provincial tax cost of the credit was about $230 million in 1989. The federal government's share in this tax cost is about $150 million.

When the "markedly restricted" criterion for DTC eligibility was first proposed in the 1985 federal budget, it was envisaged that claimants would be screened, and their medical eligibility pre-certified, by personnel of Health and Welfare Canada. Disabled groups objected to this proposed procedure on the grounds that it was inconsistent with the self-assessment basis of the tax system and that disabled individuals' personal physicians were the best qualified to decide whether they were markedly restricted in activities of daily living. As a result, responsibility for determining claimants' eligibility was assigned to private sector medical personnel. The role of Health and Welfare Canada has been to advise Revenue Canada-Taxation on the development and interpretation of eligibility criteria for the credit. Assessments of the standards being applied for certifying DTC claims and of the potential size of the severely disabled population are central elements in this evaluation.

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4. See the ***Obstacles Update Report*** (Canada, Department of the Secretary of State, 1987) p. 36.

CRITERIA FOR EVALUATING THE DISABILITY TAX CREDIT

The primary goal of recent measures undertaken by the federal government has been to integrate disabled people into the life of the community by expanding their employment opportunities, increasing their access to the wider community and promoting their ability to function independently. The DTC can be assessed in terms of its contribution to this goal. It is also appropriate to evaluate the DTC by more general criteria than have traditionally been used in assessing tax measures. These are the goals of fairness, efficiency, simplicity and certainty.

Fairness

Favourable tax treatment for disabled persons is justified primarily by considerations of fairness or equity. Two types of equity principles are usually distinguished in the public finance literature — those of horizontal and vertical equity. The principle of horizontal equity is that likes should be treated alike for tax and other purposes. Vertical equity, on the other hand, concerns the appropriate treatment by the public sector of those with different levels of economic resources; it implies that the better off should bear a relatively greater burden of taxation.

Extension of the disability tax credit (and its predecessor deduction) over time to a wider population with different forms of disability has clearly been motivated by the desire to treat likes alike. Adoption in 1986 of the new definition of "markedly restricted in activities of daily living" was intended to give all severely disabled persons equal access to the tax credit by describing general conditions of impairment that are equivalent in their effects to being blind or confined to a bed or a wheelchair.

Favourable tax treatment of disabled persons is grounded in the horizontal equity principle that those who are equally well off should pay the same taxes. In the case of disabled persons, their ability to pay tax should be calculated after allowing for expenditures related to their disabilities. Expenditures related to disabilities thus may be regarded either as necessary expenses of earning income (like union dues or the costs of moving, for example), or as necessary for a disabled person to attain the same standard of living as an able-bodied person. For these reasons, such expenses may be made deductible from taxable income or creditable against income taxes. In addition, a credit of a fixed amount, such as the DTC, provides assistance where expenditures are difficult to itemize for tax purposes. Finally, a tax benefit that does more than remove disability-related expenses from taxable

income may be considered to compensate disabled persons for the non-pecuniary hardships imposed by their disabilities.[5]

In considering a possible vertical equity, or redistributional, role for the DTC, it is important to consider the tax measure in the context of other government programs which provide income support for disabled persons. The total support to disabled persons through such programs was about $7.75 billion in 1989. The programs providing this support include provincial social assistance ($2.5 billion, of which one-half is federally funded through the Canada Assistance Plan), Workers' Compensation ($1.3 billion for long term disability pensions), the Canada and Québec Pension Plans ($1.75 billion) and Old Age Security and the Guaranteed Income Supplement for the elderly ($2.3 billion).[6]

The DTC contributes to the vertical equity of the tax system since its benefits are concentrated among lower-income taxfilers. In 1988, the deduction was converted to a credit under tax reform. By this means, benefits which increased with the recipients income were changed to a level benefit for recipients at all income levels. This form of benefit is appropriate to its role in compensating severely disabled persons for hardships associated with their impairments. In 1989, about 60 per cent of DTC benefits went to taxfilers with incomes under $30,000.

Efficiency, Simplicity and Certainty

While the primary rationale for the DTC is that of fairness, efficiency considerations are also important in evaluating any tax measure.

The traditional efficiency concern about tax measures relates to their potential effect on economic welfare through the extent to which they may lead to changes in the behaviour of taxpayers. Changes that increase marginal tax rates, for example, may generate welfare costs by reducing incentives to work or to save. In this context, the effect of the DTC should be beneficial since it increases work incentives for some recipients by raising their tax thresholds and so raising their after-tax wage rates. In 1989, for example, the DTC eliminated income tax liabilities for nearly 60,000 individuals, about half of

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5. See, for example, Krashinsky (1981). The point has also been made independently to us in correspondence by R. Bird, R. Boadway and J. Kesselman.

6. Apart from income provided through government transfer programs, disabled Canadians also receive about $2 billion in wage replacement benefits through employer- and employee-funded long term disability programs.

whom had earned income in the year. This efficiency effect contributes to the broader objective of promoting the integration of disabled people into the community.

The administration and compliance costs of tax measures are also an efficiency concern. For a measure such as the DTC, these costs arise chiefly in determining whether or not someone is eligible for the credit. In assessing these costs, it is appropriate to consider both the narrow question of whether changes to the credit design or to its administration could reduce the costs and the broader question of how the costs compare to those that would arise if benefits were provided otherwise than through the tax system. Since it seems clear that there are cost savings from using the existing administrative mechanisms of the tax system rather than setting up a new expenditure program, this evaluation addresses only the former question.

As a result of the recent expansion of DTC eligibility from a narrow but clearly defined group to a broader but more difficult to define group, it is also important that the measure be evaluated in terms of its simplicity and certainty, not only for claimants but for physicians and Revenue Canada personnel as well. For example, uncertainty in the interpretation of the definition is likely to lead to both inappropriate claims and a failure to claim by eligible individuals. In this way it may be expected to raise the administration and compliance costs of the measure.

Tradeoffs Among Criteria

In assessing the DTC, tradeoffs must obviously be made among the above criteria. In particular, broadening eligibility for the DTC beyond the population of those who are blind or confined to a bed or wheelchair has required that qualification for the credit be determined on the basis of criteria that are less clear cut than before. This leads to a tradeoff between the objectives of fairness, certainty of application and administrative efficiency. In evaluating the DTC, one must judge whether a reasonable balance has been struck among these objectives.

ORGANIZATION OF THE EVALUATION STUDY

The remainder of this study is organized as follows. Chapter 2 provides a summary of the past and present tax treatment of disabled people in Canada in the context of the evolution of other programs affecting them. The chapter includes a discussion of the origins of the DTC and related measures with a view to understanding precisely what the DTC's objectives are.

Chapter 3 examines Canada's disabled population according to the type and severity of their disabilities. The primary objective of this chapter is to determine the number of DTC recipients under alternative definitions of disability.

Chapter 4 highlights issues associated with the administration of the DTC, particularly with respect to establishing the eligibility of claimants.

Chapter 5 examines the role of the DTC in providing tax compensation for extra out-of-pocket expenses that are incurred by different categories of disabled persons, including expenses that are not eligible for the medical tax credit or other tax assistance.

Chapter 6 compares the tax treatment of disabled individuals in Canada with that in other OECD countries.

Finally, an Addendum describes policy and administrative changes that have occurred since most of the analysis presented in this report was completed.

CHAPTER 2

TAX TREATMENT OF DISABLED PERSONS IN CANADA

INTRODUCTION

An assessment of the effectiveness of the disability tax credit (DTC) requires a clear understanding of its rationale and the evolution of the measure and of related measures to aid disabled people. The purpose of this chapter is to describe how the form and scope of the DTC have changed since its inception in 1944, paying special attention to public statements made by successive Ministers of Finance concerning the objective of such tax relief, and to policy developments in the tax and related non-tax areas.

Since the DTC is an income-tax provision, most of the discussion in this chapter relates to that tax. However, federal tax relief for disabled people in Canada began, not in the income tax, but in the sales tax and customs tariff. In 1930, special footwear for mobility-impaired individuals was exempted from tariffs. Articles specially designed for the use of blind persons were exempted from federal sales tax in 1937. Since those early initiatives, the list of items used by disabled persons that are exempt from the tariff and both provincial and federal sales taxes has been expanded to the point where today, these items may be considered essentially free from sales taxes and tariffs. The newly introduced federal Goods and Services Tax continues this tradition by exempting from tax medical items and special products used by disabled persons.

The history of the income tax reveals a similar expansion of tax exemptions for income spent on medical or disability-related items.

EARLY INCOME TAX MEASURES

Medical Expenses Tax Deduction

The first income tax provision giving relief for medical or disability-related expenses was the deduction for medical expenses, introduced in 1942. It permitted a deduction on behalf of taxpayers, their spouses, or dependants for hospital costs or payments for medical services obtained from a medical practitioner, dentist, or nurse. It also permitted a deduction for the wage or salary paid to a full-time attendant for those who were blind or who were confined to a bed or a wheelchair throughout the year. Only the portion of medical expenses that was more than 5 per cent of the taxpayer's income could be deducted. In addition, the amounts deductible were not permitted to

exceed $400 for a single person, $600 for a married couple and $100 for each dependant (to a maximum of an additional $400).

The Disability Deduction

In 1944, the disability tax credit's precursor was introduced — a $480 special deduction for blind persons claimable instead of an itemized claim for attendant care under the medical expense deduction. In justifying the measure, the Minister of Finance stated simply that it was "in recognition of the additional expenses which they [blind persons] incur".[7] Given that itemization was already permitted for the expenses paid to hire a full-time attendant, the effect of the disability deduction was to provide more complete relief for such costs, including those under the deductible expenses threshold of 5 per cent of income. The disability deduction may also have been intended to compensate for time expended by unpaid family members where full-time attendants were not employed. It is still the case that the DTC cannot be claimed if costs for a full-time paid attendant are claimed under the credit for medical expenses.

The DTC also provides compensation for expenses that may not be itemized under the medical expense tax credit because their disability-related component cannot be separated from their consumption component.

EXPANSION IN COVERAGE OF MEDICAL COSTS

Increasing Itemization

When the medical expense tax deduction was introduced in 1942, it covered only hospital costs and payments for the services of medical personnel or for a full-time attendant. Since then there has been a substantial increase in the number of items covered by the deduction or its successor credit, and many of these extensions have been of particular importance to disabled people. In 1944, the deduction was extended to include expenditures on medical devices — including artificial limbs, spinal braces, braces for limbs, and hearing aids. In 1949, the cost of a wheelchair was permitted as a deduction. The payment of fees for the care of a disabled or mentally retarded dependent in an institution was made eligible for the deduction in 1957. The review of new items for possible inclusion in the list of eligible expenses is an ongoing process. Over the past eight years, 20 new items have been added to the list.

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7. The ***Budget Speech*** (Canada, Department of Finance, 1944) p. 10.

Changes in Thresholds and Limits

When the medical expense deduction was first introduced in 1942, it could only be claimed when expenses exceeded a threshold of 5 per cent of income. In addition, dollar caps or limits were placed on expenses that could be deducted from income. In justifying the 5 per cent of income threshold, the Minister said that it was based on studies of family expenditures, which showed that average outlays on medical services were in the neighbourhood of 4 or 5 per cent of income, and "... we desire only to provide exemption for those who have more than average expenditures of this kind".[8] Medical expenditures above the average level were therefore considered to represent a reduction in an individual's freely disposable income, and ability to pay taxes, relative to that of other persons with the same income.

The dollar limits for the deductions were raised in 1944, 1952, and 1960. One explanation offered for these changes was that the existing limits were imposing hardship where new and more expensive types of treatment were required.[9] The limits were finally removed altogether in 1961. In justifying their removal, the Minister said that:

> ...since the whole purpose of the deduction for medical expenses is to give relief to those taxpayers whose ability to pay income tax has been reduced by extraordinary expenses, it seems both logical and fair to remove the limit entirely.[10]

The income threshold above which deductions are permitted has also been reduced — from 5 per cent in 1942 to 4 per cent in 1944 and 3 per cent in 1953. The 1953 change was justified on the basis of a statistical study by the Department of National Health and Welfare which concluded that the new threshold provided a more accurate measure of the average medical expenses incurred by taxpayers.[11] The threshold was further liberalized when the medical tax deduction was converted to a credit in 1988 as part of tax reform and the 3 per cent threshold for the new medical tax credit was capped at $1,500. This has increased the value of tax relief for taxpayers who incur

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8. The ***Budget Speech*** (Canada, Department of Finance, 1942) p. 10.

9. See, for instance, the ***Budget Speech*** (Canada, Department of Finance, 1952) p. 12.

10. The ***Budget Speech*** (Canada, Department of Finance, 1961) p. 25.

11. The ***Budget Speech*** (Canada, Department of Finance, 1953) p. 16.

medical expenses above $1,500 but below the old cap of 3 per cent of their net income.

Transferability of Tax Benefits

Since its introduction in 1942, the medical expenses tax deduction (or credit) has been claimable by taxpayers for spouses or dependants with insufficient income to claim the full deduction. Transferability was extended to the disability deduction in 1972 when individuals who were eligible for the deduction, but whose income was insufficient to claim the full amount were permitted to transfer it to their spouses. In 1976, the deduction became transferable from a dependant disabled child to a parent or grandparent or from an "equivalent-to-married" dependant to the taxpayer — irrespective of the transferor's income. Most recently, in 1988, any unused claim of a parent or grandparent became transferable to a supporting child or grandchild living in the same home.

The increased transferability of the DTC increases horizontal equity in the tax system. It allows for the fact that disability-related expenses may be incurred by another taxpayer for a disabled family member or close relative who has little or no taxable income. Thus, it places individuals with and without disabled dependants on a more equal footing as far as their ability to pay taxes is concerned.

The Eligible Population for the Disability Tax Credit

The option available to blind people of claiming the special deduction as an alternative to an itemized claim for an attendant was extended in 1949 to persons confined throughout the year to a bed or a wheelchair. Then, in the 1985 federal budget, it was announced that the disability deduction would no longer be limited to individuals who were blind or confined to a bed or a wheelchair, but would be extended to "all severely disabled Canadians".[12] The *Budget Papers* went on to say that individuals would be considered severely disabled if they were "markedly restricted in activities of daily living".

Adoption of the "markedly restricted" criterion constituted a major departure from previous practice because it shifted the focus of eligibility from a narrow categorical approach — that is, one based on the existence of an impairment (blindness) and two very specific circumstances of disabled individuals (confinement to a bed or a wheelchair) — to a much broader functional approach based on the effects of impairments on an individual's

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12. ***Budget Papers*** (Canada, Department of Finance, 1985) p. 67.

ability to perform activities of daily living. The change responded to concerns that the old definition was unfair because it excluded other equally severe disabilities besides blindness or disabilities resulting in confinement to a bed or a wheelchair.[13]

CONVERSION OF DEDUCTIONS INTO CREDITS

As part of tax reform, the disability deduction, which would have been $2,920 in 1988, was increased by $313 and converted to a non-refundable tax credit of $550 for that year. Including its effect on provincial tax, the credit provided a total tax reduction of about $853 in 1988.[14]

The medical expense deduction was also converted in 1988 to a medical expenses tax credit (METC) of 17 per cent of eligible medical expenses in excess of the lesser of 3 per cent of net income or $1,500.

PART-TIME ATTENDANTS FOR WORKING DISABLED PERSONS

The 1989 federal budget contained a measure that permits a DTC-eligible individual to deduct the non-reimbursed costs of care provided by a part-time adult attendant whose services are required to enable the disabled person to go to work. The use of a deduction in this case is in line with the

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13. ***Budget Papers*** (Canada, Department of Finance, 1985) p. 56, and ***Obstacles*** Update Report, (Canada, Department of the Secretary of State, 1987) p. 36. This broader definition of disability also followed a successful appeal by a taxpayer before the Tax Review Board in 1983: see ***Overdyk v. M.N.R.***, 83 DTC 307, [1983] CTC 2361. The appellant, who was paralysed from the waist down on his left side, had been refused the deduction because he did not ordinarily use a wheelchair as required by the legislation. The taxpayer argued that he required the assistance of others or the use of a leg brace to move about while at home, while going to work or while at work. The taxpayer's appeal was upheld by the Board on the grounds that, if left completely alone without external aid or assistance, he would have been confined to bed as a result of his impairment.

14. The calculation is based on an assumed average provincial tax rate of 55 per cent. For provinces and territories other than Québec, provincial or territorial taxes payable (before provincial or territorial surtaxes and credits) are calculated as a percentage of "basic federal tax" with varying provincial or territorial rates. Since the DTC is a non-refundable credit deducted in calculating "basic federal tax", those provinces automatically cost-share, based on their provincial tax rates. The province of Québec, which has its own income tax, had a provincial disability tax credit of $440 in 1989 (calculated as 20 per cent of a $2,200 disability amount), or almost 80 per cent of the federal credit. The Québec disability credit was thus considerably more generous than the provincial component of the credit provided in other provinces.

general treatment in the *Income Tax Act* of expenses that are incurred to earn income.

This deduction eases the loss of attendant-care subsidies under provincial health insurance plans that normally occurs when income is earned by a disabled individual. The deduction is limited to two-thirds of eligible income (essentially, employment or self-employment income and training allowances) to a maximum of $5,000 per annum. Unlike the case of a claim for a full-time attendant under the METC, this deduction for a part-time attendant does not preclude a simultaneous claim for the DTC.

OTHER INCOME TAX BENEFITS

The *Income Tax Act* provides additional benefits in the case of disabled children. A taxpayer may claim a non-refundable credit for a dependent disabled child who is over age 18 (the age limit for non-disabled children). The claim is reduced by a portion of the dependant's income above a specified threshold. Also, the provisions relating to the deductibility of child care expenses are enriched in the case of severely disabled (DTC-eligible) children. Normally, employment-related child-care expenses of up to $4,000 may be deducted in calculating the net income of a taxpayer for a child who is under seven years of age and up to $2,000 for a child between the ages of seven and 14. For a severely disabled child of any age (even over age 14), the limit is $4,000.

The current legislative provisions with respect to the disability and medical tax credits are described fully in Appendix A.

SUMMARY

This chapter has traced the development of the DTC and other tax measures that aid people with disabilities.

Access to the disability tax credit or the deduction that preceded it has been progressively extended over time. The objective of these changes has been to improve horizontal equity in the tax system by placing all severely disabled persons on an equal footing with respect to their access to this benefit. The precursor to the current DTC was available only to blind persons but was later extended to cover individuals who are confined to a bed or a wheelchair. Then, in 1986, the benefits of the measure were extended to all those who are "markedly restricted in activities of daily living", irrespective of the nature of their impairments.

Access to the disability tax credit has also been expanded by making unused credits transferable to other family members in order to assist individuals who support disabled people.

The original purpose of exempting disability-related expenditures from taxation was simply the proper measurement of taxable income. The ability to pay taxes by disabled persons was intended to be calculated after allowing for expenditures related to their disabilities.

The attempt to exclude these disability-related expenses from taxation has been extensive. It did not start with the income tax — the oldest form of exemption is from the tariff and sales taxes. Disability-related expenses are now virtually free from such indirect taxation.

Parallel moves have been made to exempt disability-related expenses from income taxation. The number of items covered by the medical expenses deduction (or credit) has increased substantially over the years. As a result, most disability-related expenses can now be itemized. There has also been progressive reduction in the income thresholds that must be exceeded before these expenses can be itemized. In addition, dollar limits on itemization have mostly been removed.

While some disability-related expenses are still deductible from income (such as the payments for part-time attendants by working disabled persons up to an annual limit of $5,000), both the medical expenses deduction and the disability deduction were converted into credits in 1988. This change was undertaken to provide equivalent benefits to high- and low-income taxpayers.

The DTC (and its predecessor deduction) provides benefits to severely disabled pensions in addition to the benefits provided by the credit for itemized medical or disability-related expenses. The DTC recognizes expenses that are difficult to itemize. In addition, it recognizes expenses which are not subject to the medical expenses credit because they provide significant personal consumption benefits. For example, central air conditioning units help those with respiratory problems but also provide benefits to other members of the disabled person's household. In addition, the cost of the units may often be recovered through an increase in the resale value of the home.

CHAPTER 3

SIZE OF THE SEVERELY DISABLED POPULATION

INTRODUCTION

Providing tax benefits to individuals who are severely disabled presents a significant administrative challenge. The severely disabled population is a small part of a much larger population of individuals who have physical or mental impairments of varying degrees of severity. Defining and identifying those who are severely disabled requires the choice of cut-off points on a continuum between mild and extremely severe cases. The qualitative nature of the distinctions, the variety of types of disability, and the frequent occurrence of combinations of different disabilities add to the challenge.

To permit an assessment of how this challenge has been met in defining the DTC-eligible population and administering the definition, this chapter looks at information that is quite separate from taxation statistics to provide an independent estimate of the size and characteristics of the severely disabled population. In comparing this potential DTC-eligible population with actual DTC claims, a point of particular interest is the rapid growth since 1986 in the number of DTC recipients.

THE HEALTH AND ACTIVITY LIMITATION SURVEY

The source of the data used in this chapter is Statistics Canada's Health and Activity Limitation (HAL) Survey. This survey was conducted in response to Recommendation 113 of the *Obstacles* report of the House of Commons in 1981, which directed Statistics Canada to "... give high priority to the development and implementation of a long-term strategy which will generate comprehensive data on disabled persons in Canada ...".[15]

The survey was a follow-up to the 1986 Census. It drew on a sample of disabled individuals who responded positively to the following question in the Census: "Are you limited in the kind or amount of activity that you can do because of a long-term physical condition, mental condition or health problem.

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15. ***Obstacles*** (Canada, House of Commons, 1981) p. 131.

The HAL Survey is based on a sample of 71,900 disabled adults aged 15 years and over who were living in households when the survey was conducted in 1986. The survey estimate of the full population of disabled adults in households in 1986 is 2,794,552. Using supplemental data from the HAL survey master file it is possible to adjust the population for two missing groups: children under 15 and institutionalized individuals. Including these groups, the estimate of Canada's total population of disabled persons in 1986 is 3,316,877.

Among other things, the HAL Survey asked a series of questions developed by the OECD about the effects of the sampled individuals' impairments on their ability to perform "activities of daily living" (ADL). Because eligibility for the DTC is based on an individual's limitations in performing activities of daily living, the HAL Survey is the best available source of data for examining issues relating to the potential population that might qualify for the credit.

Limitations on Activities of Daily Living

The term "activities of daily living", which is the underlying concept for entitlement to the DTC, is used in a therapeutic context within the medical profession. The term is closely related to the World Health Organization definition of disability as "any restriction or lack (resulting from an impairment) of ability to perform an activity in the manner or within the range considered normal for a human being."[16] "Activities of daily living" is "the most commonly used term to describe such whole person performances."[17] In the context of rehabilitation, the term refers to such activities as getting out of bed, bathing, dressing, eating, drinking, evacuation of the bladder and bowels, and locomotion. Other activities, such as driving, for example, may be explicitly (or implicitly) mentioned in some lists of activities of daily living, such as in Nagi (1969), but omitted altogether from others like that of the OECD.

A criterion based on limitations such as the "markedly restricted" criterion, is, therefore, inherently an "effects" criterion; it is based not on the existence of a particular impairment, but rather on the effects that impairments have on an individual's ability to undertake necessary everyday activities. The degree of severity of disability indicated by this criterion may be affected by such things as differences in average severity among impairments, different degrees of severity of a particular impairment, the combined effect of a number

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16. World Health Organization (1980) p. 28.

17. Kirby (1984), p. 14.

of impairments, and even the particular characteristics of an individual, such as age or tolerance for pain.

Because of the nature of a criterion based on activities of daily living, measurement of severity by this standard requires assessment of an individual's ability to perform the general sorts of activities outlined above. According to Brandstatter, special rehabilitation units often evaluate their patients in a therapeutic setting according to a specified protocol, "observing performance in detail and assigning a score on a defined scale."[18] Using this concept to compare degrees of disability requires a methodology to identify activities of daily living and to quantify the abilities of individuals to perform these tasks.

The HAL Survey Severity Index

The HAL Survey analysts developed a methodology for ranking disabled individuals who were sampled in the survey, based on their responses to 23 screening questions concerning activities of daily living. Surveys such as the HAL Survey must weight respondents' answers to the screening questions and apply a suitable methodology to combine the results in an overall score indicating the severity of disability. The basic problems involved in statistically classifying individuals by this criterion include choosing: (i) the screening questions, (ii) the weights assigned to different answers, and (iii) an appropriate cut-off score to determine the "severely" disabled population.

Given the inherently qualitative nature of a test based on activities of daily living, it is not surprising that there is a lack of consensus about exactly which activities should be assessed in statistically classifying individuals by this criterion. There is even less agreement about precisely what questions should be asked to ascertain appropriate information about these activities, how the responses to the questions should be weighted and combined, and what cut-off point should be chosen for the "severe" category.

The screening questions used by Statistics Canada for classifying individuals by the severity of their disability are an extension of 17 basic questions developed in an OECD "common effort" during the 1970s to establish internationally accepted disability screening criteria. Since these basic questions have been used in a number of national surveys in several European countries, the U.S.A., and Canada, they have a "certain momentum behind them", as a background working paper for the HAL Survey by McDowell (1988) puts it.

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18. Brandstatter (1984), p. 246.

The designers of the HAL Survey wanted to retain the continuity and comparability with other surveys based on activities of daily living, which would arise from using the questions developed by the OECD, but also to refine the screening process (particularly in the case of mental impairments) to the extent that this could be accomplished within that established framework. Accordingly, they added six questions to the original OECD list, giving them a total of 23 screening questions.

The HAL Survey questions are reproduced in Appendix B. The six questions indicated with an asterisk were added by the HAL Survey analysts, while the remaining 17 are the original questions developed by the OECD. The numbers in brackets following each question show the potential range of answers. A "0" indicates "no difficulty experienced", a "1" indicates a "partially unable to" response, and a "2" indicates a "completely unable to" response.

Various procedures for weighting each individual's responses to the 23 screening questions were investigated by HAL Survey analysts. These included a simple summation of 0, 1 and 2 responses, a summation of "completely unable to" responses and others. Based on its advantages in assessing the effects of multiple impairments and different degrees of particular restrictions, and on its high correlation with the ranking of individuals under other scoring procedures, the HAL Survey analysts chose the first procedure. This ranks individuals by severity of disability according to their "SIGADL score": that is, the total of their 0, 1 and 2 responses to the 23 questions. (SIGADL stands for significantly restricted in activities of daily living.) Because there are possible "2" responses to 18 of the 23 questions, the maximum SIGADL score is 41. The highest score actually encountered in the survey is 39.

The "Severely" Disabled Population in the HAL Survey

For the purposes of tabulations and analysis, HAL Survey analysts classified the disabled individuals into three groups (mildly, moderately and severely disabled) based on their SIGADL scores as follows: less than 5 ("mildly disabled"); 5 to 10 ("moderately disabled"); 11 and over ("severely disabled"). While the choice of cut-offs between groups is fundamentally an arbitrary one, the choice was based on factors such as points at which there were significant jumps in the use of disability-related aids or devices or the reliance on assistance from other individuals.

Table 3.1 shows the distribution by SIGADL scores of all disabled adults living in households. As can be determined from the last column in Table 3.1, 45.1 per cent of disabled persons are classified as "mildly disabled" by the HAL Survey three-way classification, while 35.2 per cent are classified as "moderately disabled", and 19.7 per cent as "severely disabled". Therefore,

based on the SIGADL classification procedure, just under 20 per cent of the total disabled adult population in households (or 549,352 out of 2,794,552) is classified as severely disabled based on responses to the HAL Survey screening questions. These individuals represented 2.8 per cent of the total Canadian adult population in 1986.

TABLE 3.1

Distribution of Disabled Adults by HAL Survey Severity Score

	HALS Score	Number of Individuals	(%)	Cumulative Percentage
	1	255,438	9.2	9.2
Mildly	2	383,438	13.8	23.0
Disabled	3	345,555	12.4	35.4
	4	270,774	9.7	45.1
	5	222,908	8.0	53.1
	6	195,248	7.0	60.1
Moderately	7	163,716	5.9	66.0
Disabled	8	143,950	5.2	71.2
	9	127,820	4.6	75.8
	10	124,383	4.5	80.3
	11	86,589	3.1	83.4
	12	82,366	3.0	86.3
	13	65,696	2.4	88.7
	14	55,790	2.0	90.7
	15	49,598	1.8	92.5
	16	40,114	1.4	93.9
	17	31,889	1.1	95.1
	18	27,797	1.0	96.1
	19	21,345	0.8	96.8
	20	16,305	0.6	97.4
	21	12,996	0.5	97.9
	22	9,762	0.4	98.2
	23	10,617	0.4	98.6
Severely	24	7,186	0.3	98.9
Disabled	25	6,731	0.2	99.1
	26	5,631	0.2	99.3
	27	4,741	0.2	99.5
	28	4,533	0.2	99.7
	29	2,474	0.1	99.7
	30	1,825	0.1	99.8
	31	1,212	0.0	99.9
	32	1,254	0.0	99.9
	33	851	0.0	99.9
	34	600	0.0	99.9
	35	423	0.0	100.0
	36	529	0.0	100.0
	37	334	0.0	100.0
	38	160	0.0	100.0
	39	4	0.0	100.0

APPLYING HAL SURVEY DATA TO ESTIMATE THE POTENTIAL DTC POPULATION

Characteristics of the DTC Target Population

The DTC is available to individuals with a "severe" and prolonged mental or physical impairment". The *Income Tax Act* defines a "severe and prolonged impairment as one that results in an individual being "markedly restricted in his activities of daily living" and that has lasted or is expected to last for at least one year. Until 1991, the "markedly restricted" criterion was not defined in the Act, but the information contained on the DTC certification form and on an information brochure distributed to physicians has provided some guidance on how the intended population might be identified.[19]

For example, the certification form specifies that among the activities that are considered to be activities of daily living are personal care activities, such as eating, dressing, washing, bathing, personal grooming; mobility; communication; and the ability to manage personal affairs. The form specifies that the degree of restriction should be assessed after taking into account the corrective effects of any aids and devices, such as a prothesis or a hearing aid, used by the individual. Furthermore, it was intended that the individuals who were eligible under the old criteria - blind persons and people confined to a bed or a wheelchair - as well as profoundly deaf people, and certain other identified groups would automatically qualify for the credit.[20]

Another indication of the intended degree of severity of the disabling conditions that would qualify an individual for the DTC is provided by the following comment provided in the Department of Finance/Revenue Canada, Taxation follow-up response in 1987 to Recommendation 46 of the 1981 Obstacles report: "Generally speaking, conditions that are equivalent in their restrictive effect to being confined to a bed or wheelchair or being blind would now entitle the person to the disability deduction".[21]

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19. See, ***Disability Credit Certificate***, Revenue Canada-Taxation form T2201, and ***How to Certify Disabilities for Income Tax Purposes***, Minister of Supply and Services, 1990. Copies of these two documents are provided in Appendix C at the end of this study.

20. In addition to the T2201 form and the booklet for physicians referred to above, see the discussion in the 1985 and 1986 ***Budget Papers***, Canada, Department of Finance.

21. ***Obstacles Update Report*** (Canada, Department of Secretary of State, 1987) p. 36

APPLICABILITY OF THE "SEVERELY DISABLED" CATEGORY IN THE HAL SURVEY

The HAL Survey "severely disabled" population does not correspond to the potential DTC population in a number of respects which need to be taken into account in applying HAL Survey data to estimate the potential DTC population.

To begin with, adjustments must be made to take the following factors into account:

- Children and institutionalized individuals are excluded from the survey;

- Some disabled persons cannot use the credit because they have no taxable income and cannot transfer the credit to a spouse, guardian or other qualifying relative;

- Some taxpayers who are eligible for the DTC will find it more advantageous to claim attendant care expenses in place of the DTC; and

- The 1986 survey data must be adjusted to reflect population growth to the DTC comparison year.

In addition, the DTC eligibility criteria differ in several significant respects from those used to classify individuals as severely disabled in the HAL Survey.

The experienced or expected duration of a condition is six months for individuals included in the HAL Survey sample. It is one year for DTC eligibility.

The HAL Survey question (A8) with regard to endurance in walking refers to a distance of 3 city blocks whereas the DTC guidelines relating to cardio-respiratory impairments refer to one city block.

The HAL Survey asks (not in the screening questions, but in ancillary questions used in choosing the severity cut-offs) whether an individual uses, or could use, a wheelchair. However, eligibility for the DTC is based on the stricter criterion of confinement to a wheelchair for a substantial part of the day.

HAL Survey SIGADL scores would appear to class mobility- or flexibility-related impairments as severe much more frequently than other impairments. The potential scores by type of restriction are shown below.

Type of Restriction	Number of: Questions	Points
Hearing	3	5
Seeing	3	4
Speaking	1	1
Mental Impairment	3	4
Mobility or Flexibility	12	24
General	1	3
Total	23	41

These variations are reflected in the median SIGADL scores for adults chosen according to particular DTC-related criteria.

Criterion	Median SIGADL Score
Blind	10.5
Deaf	7.5
Confined to bed	23.5
Use of wheelchair	17.5

These differences between DTC and HAL Survey classification criteria suggest that the SIGADL score of 11 may not be an appropriate boundary for eligibility for the DTC. For some conditions (blind, deaf, and mute) it appears too restrictive, while for some mobility-related restrictions it may not be restrictive enough.

Estimates of the Potential DTC Population

Based on these considerations, Table 3.2 applies HAL Survey data to derive low and high estimates of the DTC-eligible population in 1990. In both estimates, individuals who are blind, deaf, mute or confined to a bed or wheelchair are classed as severely disabled regardless of their SIGADL scores. For other types of restriction, the estimates are based on SIGADL scores of 14 or more for the "low" estimate and 11 or more for the "high" estimate. The two estimates are adjusted to account for excluded populations, non-taxpayers, attendant care claimants and population growth from 1986 to 1990.

Table 3.2
Estimated DTC Population from HAL Survey

Estimate	Low	High
Base estimate from HAL Survey	410,426	600,681
Plus - children under age 15[1]	23,800	23,800
Estimated taxable population in households[2]	321,327	462,116
Plus - estimated population in institutions[3]	45,006	45,006
Less - attendant care claims[4]	-34,450	-34,450
1986 estimate	331,883	472,672
1990 estimate[5]	345,158	491,579

1. Data obtained from Statistics Canada.
2. From the HAL Survey data on income, it is estimated that 74 per cent of individuals are able to claim or transfer the DTC.
3. Of 180,025 severely disabled adults and children in institutions, 25 per cent are assumed to be able to claim or transfer the DTC.
4. Based on taxation statistics for 1989. Persons making attendant care claims are not eligible to claim the DTC.
5. Based on 4 per cent population growth from 1986.

COMPARISON OF THE POTENTIAL DTC POPULATION ESTIMATES WITH THE ACTUAL NUMBER OF DTC RECIPIENTS

The substantial range between the low estimate of about 360,000 and the high estimate of about 490,000, for a relatively small difference in the classification criteria applied to the HAL Survey data, underlines the difficulty in providing any precise estimate of the DTC-eligible population.

In comparison, the actual number of recipients in 1990 is expected to be about 410,000. Taxation statistics indicate a total of over 420,000 claims but this number must be adjusted to reflect double counting where the unused portion of a credit is transferred to a second taxpayer.

In 1986, the number of DTC claims was about 180,000, well below the estimated range of the potential DTC population. Since then the number of claims has grown steadily to a level in the middle of the range. This suggests that it has taken several years for information about the new eligibility criteria to become known to many disabled individuals and their physicians. The fact that over half the increase in DTC recipients since 1986 comes from the age 65 and over population supports this idea. The fact that the number of DTC recipients is well within the estimated population range, after several years of strong growth, suggests that efforts by Revenue Canada, Taxation, Health and Welfare Canada and disabled groups to inform potential claimants have been relatively successful.

CHAPTER 4

ADMINISTRATION OF THE DTC

Over the period of application of the new definition of disability, the number of claimants has more than doubled. This in itself raises questions about the compliance with, and administration of, the credit. Given the newness of the eligibility criteria, and its qualitative nature, it seems likely that most of the increase in take-up of the measure is associated with a learning curve, as information about DTC eligibility has spread among disabled groups and among physicians. At the same time, the analysis of Chapter 3 showed that relatively small changes in classification standards could make a substantial difference in the number of Canadians considered to be severely disabled. This raises the question of whether the standard of eligibility actually applied by physicians accurately reflects the criteria of "markedly restricted" and the uniformity of that application.

When eligibility for the DTC was broadened in 1986 from those who are blind or confined to a bed or wheelchair to all those who are "markedly restricted in the activities of daily living", the initial plan was for eligibility to be determined by personnel of Health and Welfare Canada. This was to help ensure that the necessarily qualitative definition would be applied as uniformly as possible. When the measure was implemented, though, the responsibility for determining eligibility was assigned to personal physicians. Since centralized eligibility determinations are used for similar eligibility determinations (Workers' Compensation and C/QPP disability, for example), it is natural to ask whether the administrative procedures adopted for the DTC may have resulted in the definition of severe disability being interpreted in a less uniform way than was intended.

The present chapter examines these issues in relation to the experience to date in administering the new eligibility criterion for the DTC. The chapter examines the nature of the disability definition and compliance with it, Revenue Canada procedures and compliance tests, and the results of some court appeals involving the DTC. Comments are also provided on the cost implications of more centralized administrative procedures.

NATURE OF THE DISABILITY DEFINITION

The concept of "markedly restricted in the activities of daily living" has two features that have undoubtedly made its implementation challenging. First, it is qualitative and, second, it is new.

Its qualitative nature, particularly with respect to the term "markedly" but also with respect to what are included in "activities of daily living", means that uniformity in its application must depend on the availability of detailed guidelines that are understood and accepted by physicians. For example, interpreting deafness in terms of "difficulties" in hearing and understanding a conversation rather than "complete inability" to hear and understand a conversation would make a substantial difference in the number of eligible claimants.

Additional problems can arise in applying the "markedly restricted" criterion to young children, because of their natural physical and mental limitations.

The challenge of obtaining a uniform application of a qualitative criterion is clearly much greater when eligibility assessments are made by many individuals than when they are centralized.

The definition of severe disability for the DTC involves a concept that is new to most of the physicians who are responsible for interpreting it. The definition parallels that used in the C/QPP disability program in focusing on the restrictive effects of a disabling condition rather than its simple presence. However, it departs from the C/QPP definitions by specifying restrictions in activities of daily living rather than inability to work. While there is considerable experience among the medical and allied professions in assessing work-related disabilities, knowledge of effects on activities of daily living is much more limited.

Another important consideration is the position of physicians who are asked to provide DTC certifications for patients. There is a grey area in the eligibility criteria and guidelines given their qualitative nature, and some doctors may provide a more liberal interpretation of the rules than was intended. Indeed, there may also be pressure by patients on some doctors that leads to this result. In addition, some patients may shop among doctors for favourable opinions. The fact that, under the CPP disability program, over one-third of the claims submitted for eligibility determination do not meet the eligibility criterion suggests that, in the case of the DTC, there could also be pressure on physicians to provide certifications.

The steady growth in claims suggests that it has taken time for physicians and their patients to become aware of the extent to which eligibility for the DTC was broadened in 1986.

These considerations highlight the importance of detailed guidelines in clarifying the government's intended interpretation of the severe disability definition and permitting physicians to make certifications as simply and uniformly as possible. Given the newness of the basic eligibility concept, they also suggest that the elaboration and communication of fully satisfactory guidelines is a process that can be expected to take several years.

REVENUE CANADA PROCEDURES AND COMPLIANCE TESTS

The role of Revenue Canada, Taxation assessment personnel is to ensure that the T2201 certification forms for the DTC are properly completed, that both the claimant and physician have signed the form, and that the physician has indicated clearly and unambiguously that the claimant has a "severe and prolonged" disability which "markedly" restricts the taxpayer in activities of daily living. Revenue Canada relies, therefore, on the decision of the attending physician, and, aside from routine audit procedures applicable to all taxpayers, does not employ any special administrative checks on the eligibility of new DTC claimants. This is consistent with the essentially self-assessing nature of the personal income tax system.

However, with the assistance of Health and Welfare Canada, Revenue Canada has undertaken a detailed compliance test on past DTC recipients. In early 1990, Revenue Canada began sending to medical advisors at Health and Welfare Canada a random sample of 2,379 DTC claims that had already been allowed to determine whether, at least in the view of the advisors, the claimants were actually markedly restricted in activities of daily living. Personnel from Health and Welfare Canada acquired from the claimants and their physicians all the supplementary medical information that was considered necessary to permit such a determination. According to Revenue Canada, results from this assessment indicate that the level of non-compliance with standards in the *Guidelines to Physicians* was about 15 per cent.

In addition, while Revenue Canada does not routinely screen new DTC claims with respect to eligibility, they have screened some claims in the past, with the assistance of medical advice provided by Health and Welfare Canada. Revenue Canada officials have informed us that, in total, they have screened 26,579 taxpayer-requested adjustments to prior year returns relating to DTC claims and rejected 10,088, or 38 per cent of the claims assessed. The taxpayer requested adjustments to prior year claims were not representative of the total population of DTC recipients, however, since the sample selected was weighted in favour of what Revenue Canada viewed as clearly ineligible cases. (The non-random nature of this information was a key motivating factor behind the decision to undertake the detailed compliance test described above.)

Requests for adjustments to prior year returns to allow DTCs not originally claimed present particular difficulties. Officials of Health and Welfare Canada have noted that often there is inadequate information to determine whether an existing disability also existed, at the same level of severity, in a prior year. Under the existing law, a DTC claim may be made for the current taxation year and the three preceding years. Limiting claims to the current taxation year and the immediately preceding year would parallel the treatment under the CPP disability program.

SUMMARY OF DISABILITY TAX CREDIT COURT APPEALS

Where a current year claim is rejected by Revenue Canada, Taxation, claimants have recourse to the courts. Several court appeals have been made and their results are of interest in relation to the administration of the DTC.

As of October 1990, Revenue Canada had received about 4,000 taxpayer appeals or Notices of Objection (a prior stage to an appeal), with respect to DTC claims that had been denied for a current year. The "markedly restricted" criterion had been in effect for more than three years before an appeal was challenged by Revenue Canada in court. We have obtained transcripts of the "Reasons for Judgement" and written comments by Crown Counsel on all but one of the DTC court appeals that have been heard to date and will summarize findings in these cases.

Bertulis v. M.N.R. The first appeal was heard in the Tax Court of Canada on August 10, 1989, following a recommendation by medical advisors at Health and Welfare Canada to Revenue Canada that the appellant's DTC claims in respect of the 1986 and 1987 taxation years be refused. We have been informed by a Health and Welfare Canada medical advisor that the initial T2201 form seemed to indicate only that the claimant had a minor disability.

The appellant testified in court, however, that he had been the victim of a motor vehicle accident and that he had trouble walking outside his house without crutches. He stated that he was in constant pain and was completely dependent on his wife to perform some activities of daily living — for example, he needed her assistance in bathing and dressing. The appellant testified that he had not been sent the follow-up questionnaire, which Health and Welfare Canada may use to solicit further medical information from a claimant. No medical witness or evidence was provided on behalf of the Minister.

In rendering his decision in favour of the appellant, the judge noted that the appellant had complied with the law by filing two appropriately completed DTC certification forms that had been duly signed by his physician. The judge referred to "Reasons for Judgment" in a previous civil action involving the appellant in which medical evidence of his condition had been presented in detail. The judge refused to refer to guidelines prepared by Health and Welfare Canada and Revenue Canada for claimants and physicians. He said that based on his personal observation and on the documentary evidence submitted, the appellant "overwhelmingly" met the requirements of the legislation. The judge indicated that for the appeal to be denied, more was needed than the opinion of an anonymous and distant bureaucrat ("a bozo in Ottawa").

This appeal indicated that for an appeal relating to a properly completed claim to be rejected in court, medical evidence would have to be provided by the Minister as to why the individual was not "markedly restricted". A rejection based simply on an assessment of the information contained on the T2201 certification form, would not be sufficient to result in the court overturning the initial decision of the attending physician.

The case also emphasized that it is important for Health and Welfare Canada medical advisors to ensure that the information presented on the T2201 form reflects accurately the true extent of the claimant's impairments before recommending rejection of the claim. Health and Welfare Canada has follow-up questionnaires that can be sent to DTC claimants to acquire additional information about their disabilities and restrictions in activities of daily living. Health and Welfare Canada also has a medical release form that, if signed by the claimant, permits Health and Welfare Canada medical advisors to acquire additional medical information from the claimant's physician, hospital or other medical agency. In the above court case, however, the department did not request additional information from either the individual or his physician before recommending rejection of his DTC claim. Complete information on this appellant might have prevented this case, which the judge treated as vexatious.

MacDonald v. M.N.R. A second DTC court appeal was heard in Vancouver on July 3, 1990. The appellant, a 60 year old woman, testified that she had been unable to work since 1978 and had suffered a heart attack in 1986. The appellant applied for the disability deduction for the 1987 taxation year. On the T2201 certification form, her physician indicated that she had a severe and prolonged impairment that markedly restricted her in activities of daily living. In the comments section to the certification form, however, the physician qualified his decision with the following comment: "She is unable to work but is **not** severely disabled in the strictest sense of the word".

Medical reports were obtained by Health and Welfare Canada from the appellant's cardiologists. The reports indicated that the appellant could do the assigned exercises "without any problem" and that her condition was "average for her age". Based on the information provided by the appellant's personal physician and the cardiologists' reports, a Health and Welfare Canada medical advisor recommended in an assessment prepared for Revenue Canada that the claim be denied. In his view, the appellant's restrictions in performing activities of daily living were not severely or markedly impaired, "at least up to September 1988".

In a letter sent to Health and Welfare Canada medical advisors on behalf of the appellant dated November 6, 1989, her (apparently new) family physician stated that her condition:

> markedly reduces her activities at home and in public, i.e., light housework she finds exhausting ... I do not see this situation changing in the future. This patient deserves the Income Tax Disability Tax Credit.

The report prepared by the Health and Welfare Canada appointed physician noted, however, that this information was not pertinent since it did not "appear to represent her condition before September 1988".

The appeal was dismissed. This case indicated clearly that medical information presented by the Minister to the court can result in the denial of an appeal and that medical information can be used to establish the eligibility for a past year of a DTC claimant whose medical condition is changing over time.

Gorin v. M.N.R. In another appeal heard in Saskatoon on August 22, 1990, the appellant was 80 years old and suffered from asthma. The appellant testified that her disability caused her to avoid certain places where pollutants could be a problem and also prevented her from undertaking normal activities such as going to church and grocery shopping. When she suffered an attack, she indicated that she would have to cease activities and rest for 15 minutes to an hour. The frequency of the attacks varied, from two to three a day during certain seasons, to once a week.

In the appellant's claim for the DTC for the 1988 taxation year, the appellant's doctor had checked on the T2201 form that the appellant had a severe and prolonged disability. But in the section of the form in which the

degree of restrictions in activities of daily living are rated, only a "moderate" (rather than a "marked") restriction was indicated. At trial, the Minister called a doctor employed by Health and Welfare Canada as an expert witness to indicate that based upon the disability credit certificates, a disability questionnaire and letters from two of the appellant's physicians, the degree of restriction in her activities of daily living was only "moderate".

The trial revealed the existence of an inconsistency on the disability certificate. On the back of the certificate, a "severe" disability was defined to be one that "markedly restricts the person's activities of daily living". On the front of the certificate, however, the physician was asked to check whether in his opinion the disability is "severe" and also whether it results in "mild", "moderate" or "marked" restrictions in activities of daily living, thus giving rise to the potential for inconsistent answers.

The judge accepted the appellant's argument that her activities of daily living were markedly restricted because she was unable to engage in normal activities, such as going to church or going grocery shopping. In reaching his decision, the judge refused to be influenced by guidelines on the T2201 certification form because they had not been incorporated into the actual legislation. He also expressed reservations about qualifying the Health and Welfare Canada doctor as an expert witness on the grounds that he had not examined the appellant, he was not an expert in asthma, and he was employed by the government of Canada.

Tod v. M.N.R. On September 19, 1990, in London, Ontario, two additional DTC appeals cases were heard in court, following recommendations for rejection of the claims by Health and Welfare Canada medical advisors. In the first case the appellant's physician had certified on the T2201 certification form that her disability (fibrositis) was "severe and prolonged" and that it "markedly" restricted her activities of daily living. In a medical report provided to Health and Welfare Canada, he further indicated that the patient had experienced pain in her left lower chest since an accident in 1979. He said that many people with the appellant's condition are unable to work and that, without an accommodating employer, she would be disabled with limited activities of daily living.

On a follow-up questionnaire that the appellant had completed for Health and Welfare Canada medical advisors, she indicated that she had difficulty walking one city block or less and that she needed help in preparing or serving food and, because of her medication, in managing her personal affairs.

Based on their assessment of the information, Health and Welfare Canada medical advisors concluded that the appellant's disability did not markedly restrict her in activities of daily living and recommended rejection of her DTC claim. Health and Welfare Canada provided a doctor to provide expert medical testimony to this effect on behalf of the Minister in court.

In rendering his decision in favour of the appellant, the judge noted that, while the appellant was working full-time during the 1987 taxation year, her evidence, supported by her physician's letters, was that she was only able to maintain her employment because her employer accommodated her disability and the limitations it imposed upon her. The judge noted that the appellant testified that she was unable to do housework or shopping, for example, and that she relied upon other family members for these services. The judge stated that "...it all boils down to what is meant by markedly restricted in the activities of daily living. That is a judgment call to be made by the Court." He said that the appellant was not to be penalized by the fact that she made extraordinary efforts to maintain her employment. He then concluded that the appellant's limitations fell "squarely" within the criteria of the *Act*.

Glendenning v. M.N.R. In the second of the two cases the appellant was a 57 year old woman. On the initial T2201 certificate, the appellant's doctor certified that she suffered from a "severe and prolonged" impairment. Her physician, however, rated her restrictions in activities of daily living as only "moderate" rather than "marked". On a second T2201 form submitted by the appellant, her physician elaborated on the full extent of her medical problems and rated her restrictions in activities of daily living as "marked". In an additional medical report filed with the appellant's Notice of Objection, her physician said that her "problems have increased over the last year or two years". He said that she was unable to work and was restricted in activities of daily living.

A Health and Welfare Canada doctor was available to provide expert medical testimony on behalf of the Minister but was not called. A follow-up questionnaire, which had been sent to the appellant and completed by her, was produced by the Minister in court to indicate that she was not significantly restricted in activities of daily living. In rendering his decision in favour of the appellant, the judge was, however, critical of the follow-up questionnaire used by Health and Welfare Canada and contended that it was of little help in determining whether the appellant was markedly restricted in activities of daily living. The judge made the following statement in justifying his decision:

> I have heard what has happened to her lifestyle as a result of these health problems...there is no doubt in my mind — from her own evidence — that she must live a very restricted lifestyle because of her disability... And that is exactly what Parliament had in mind when it put that section in the *Act*... On her evidence alone, she came within that category.

White v. M.N.R. In one other appeal relating to the DTC, which was heard in Vancouver on October 1, 1990, the Court ruled in favour of the Minister that the appellant was not markedly restricted in activities of daily living. However, the unusual circumstances of the case mean that it is not a useful precedent. The appellant's physician retired after certifying on the T2201 form that the appellant had a severe and prolonged impairment that markedly restricted her in activities of daily living. Revenue Canada denied the claim and the appellant submitted a new T2201 form on which her current doctor indicated clearly that the appellant was not markedly restricted. The retired doctor subsequently changed his opinion to agree with that of the appellant's second doctor.

Implications of the Court Appeals

Of the six court decisions reviewed, the appeals by taxpayers were upheld in four and rejected in two. These appeals constitute only a tiny fraction of the DTC claims since 1986 and they may be presumed to deal with claims that are close to the eligibility borderline. Thus, it would not be appropriate to conclude from them either that physicians are applying the definition too loosely or that Revenue Canada and Health and Welfare Canada are attempting to administer it too tightly. Nevertheless, the appeals have several implications for the administration of the DTC.

Statements by judges that they refuse to be bound by guidelines clearly indicate the importance of incorporating the guidelines in the *Income Tax Act* or regulations.

The court appeals also demonstrated the importance of working to refine the description of the eligibility criteria on the T2201 form, in the guidelines provided for physicians and in follow-up questionnaires which Revenue Canada can use to obtain additional information about a claimant's restrictions. For example, inconsistencies on the T2201 form, whereby a doctor may certify a patient as "severely" disabled but not "markedly" restricted in activities of daily living were pointed out by judges.

Revenue Canada could have Health and Welfare Canada medical advisors review a greater number of claims, but this could not be done at the initial assessment stage. As required in particular cases, Revenue Canada could seek the advice of independent medical experts if Health and Welfare Canada staff do not have the requisite medical expertise. To minimize administrative costs, it might be sufficient for Health and Welfare Canada to assess only a sample of new claims each year to ensure that reasonably consistent standards continue to be applied by physicians.

COST IMPLICATIONS OF A MORE CENTRALIZED ADMINISTRATION OF THE DTC

At least two other administrative mechanisms could be examined if it were considered important to achieve greater control over the determination of eligibility for the DTC. One is the proposal in the 1985 Budget of a centralized screening and pre-certification of claims by a panel of medical experts at Health and Welfare Canada. Another is the intermediate option of relying on personal physicians to certify the medical condition of the applicant using a form based on the current guidelines, while leaving the final certification of eligibility to a medical experts panel.

In considering any such option, there are a number of factors that would have to be considered. First, the CPP disability program has administration costs of about two cents per dollar of benefit but an average benefit level that is nearly ten times as high as that of the DTC. This suggests that a DTC that was centrally administered, along the lines of the CPP disability program, could have administration costs of up to 20 cents per dollar of benefit. However, such a comparison should take into account the costs imposed on physicians of complying with the DTC under the current system plus the current costs of administering the DTC.

A second factor to consider is the possible revenue effect of an administrative change. For example, if introducing a new administrative procedure were estimated to result in the elimination of 10,000 inappropriate claims, then the federal cost savings of $7.2 million could be weighed against the additional administrative costs of the new procedure.

Administrative costs and possible revenue savings are not the only factors to consider. Another important issue, particularly with a measure like the DTC, is the degree to which a more centralized administration might be intrusive or stigmatizing. This was the major concern raised by groups representing Canadians with disabilities in their reaction to the 1985 budget proposal.

SUMMARY

This chapter has examined administrative issues relating to the DTC. Based on considerations such as the qualitative nature of the definition, there appears to be some potential for non-uniformity in the determination of DTC eligibility. The changing level of claims over time and the results of Revenue Canada compliance tests provide some support for this view.

The elaboration and communication to physicians of detailed guidelines supporting the eligibility criteria are clearly important in reducing uncertainty about the definition but can only be effective over time. In addition, the review of court cases showed that a number of potential administrative changes might be beneficial. These included defining the eligibility criterion in the *Income Tax Act* or regulations, eliminating inconsistencies on the T2201 certification form, and improving communication of medical information between Health and Welfare Canada medical advisors, claimants and physicians. These procedures should help to reduce the number of Court appeals and the administrative work-load involved in challenging such appeals.

Finally, it is noted that any change to a more centralized eligibility determination system would likely involve a substantial increase in administration costs. Thus, no change of this nature is recommended. However, Revenue Canada should continue to undertake compliance audits to monitor how the eligibility determination system is working and to provide information on difficult areas where improvements in the clarity of the eligibility definition or communications materials might be warranted.

CHAPTER 5

THE OUT-OF-POCKET EXPENSES AND INCOMES OF DISABLED PERSONS

INTRODUCTION

This chapter examines the effect of the DTC in providing compensation for expenses that arise because of severe disabilities, beyond that provided by the medical expenses tax credit and other tax assistance for itemized disability-related expenses. Since the DTC provides a fixed amount of assistance to each recipient, at best a rough matching with variable expenses for different individuals can be expected.

EXPENSE DATA RELATED TO DISABILITIES

The 1986 Health and Activity Limitation (HAL) Survey (described in Chapter 3) provides the best available source of data on the extra expenses incurred by individuals who are restricted in their ability to perform activities of daily living. The survey solicited information from a sample of disabled individuals regarding the out-of-pocket expenses that arise because of the individual's "condition or health problem" and that were not "reimbursed by any insurance or government program". Expenses were defined to include those incurred by the disabled person or on his or her behalf by family or friends.

The "out-of-pocket" expenses reported in the HAL Survey thus exclude expenditures that are compensated outside the tax system, but include tax-assisted expenditures, such as those that are currently eligible for the medical tax credit or the special attendant deduction, and any other medical and disability-related expenses. Data on the following categories of expenditures were collected in the HAL Survey: prescription and non-prescription drugs; purchase and maintenance of clothing, aids, medical supplies and equipment; health and medical services; modifications to residences; transportation; personal services such as homecare and assistance for personal and household chores; and other costs.

One comment on a limitation of the HAL Survey expense data is in order. An important exclusion is the implicit value of uncompensated time and effort put into looking after disabled people by their relatives for such things as household chores, personal care and transportation. Thus, while the HAL Survey expense data provide an almost complete picture of actual **pecuniary** expenses, they are not a complete indicator of **all** extra costs related to disabilities.

The Out-of-Pocket Expenses of Persons with Disabilities

Unfortunately, the HAL Survey expense categories do not provide sufficiently detailed information to permit us to identify precisely what amounts of out-of-pocket expenses are already eligible to be itemized for tax assistance. Based on the current coverage of the tax legislation, which specifies the eligible categories of expenditures, we have assumed that the following assumptions in this respect are reasonable: prescription and non-prescription drugs (100 per cent);[22] purchase and maintenance of special aids (50 per cent); health and medical services (100 per cent); modifications to residences (50 per cent); transportation (0 per cent); personal service expenses (50 per cent); and other costs (0 per cent). We derive our estimates of non-itemized out-of-pocket expenses from the eligible percentage figures in each category.

Table 5.1 sets out, by age bracket, the data relating to out-of-pocket expenses incurred by severely disabled adults and all other disabled adults who were living in households at the time of the HAL Survey; the table excludes children and institutionalized adults because data on expenses were not available for those groups. Our estimate of the severely disabled population is the HALS-based "adjusted ADL" definition reported in Chapter 3, Table 3.2. This includes the HALS severely disabled category plus any adults who are blind, deaf or confined to a bed or a wheelchair but who are not categorized as severely disabled in the HAL Survey.

The first section of Table 5.1 relates to individuals who incur any type of out-of-pocket expenses, including both expenses that may currently be itemized for tax purposes and those that may not. In a given year, approximately 35 per cent of the total population of disabled adults in households (or roughly 983,000 individuals) incur some type of out-of-pocket expense related to their disabilities. The corresponding percentages for the "severely disabled" category and all other disabled individuals are 47 per cent and 32 per cent. Thus, the severely disabled group is considerably more likely to incur out-of-pocket expenses related to disabilities than less severely disabled persons.

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22. While non-prescription drugs are not eligible for itemization under the medical tax credit rules, we assume that all drugs required because of a prolonged and severe disability will be prescribed by a physician.

Table 5.1

Out-of-Pocket Expenses Incurred by the Potential DTC Population and all Other Disabled Adults Living in Households (1989 dollars)

		Estimated Eligible DTC Population			All Other Disabled Population			
		Age 15-64	Age 65 +	Total	Age 15-64	Age 65 +	Total	Grand total
Number of individuals in category		304,060	296,621	600,681	1,463,578	730,293	2,193,871	2,794,552
I.	Any type of out-of-pocket expenses							
	Number of individuals	156,280	125,620	281,900	495,675	205,105	700,780	982,680
	Total expenses ($ million)	245	205	450	573	186	759	1,208
	Average expense per individual incurring expenses ($)	1,566	1,631	1,595	1,155	908	1,083	1,230
	Average expense per total population ($)	805	691	749	391	255	346	432
II.	Out-of-pocket expense not eligible for tax assistance							
	Number of individuals	71,376	58,381	129,757	198,314	87,665	285,980	415,736
	Total expenses ($ million)	108	93	201	189	92	281	482
	Average expense per individual incurring expenses ($)	1,509	1,599	1,550	953	1,052	983	1,160
	Average expense per total population ($)	354	315	335	129	126	128	173
III.	Out-of-pocket expenses more than $4,600 not eligible for tax assistance							
	Number of individuals	7,204	3,544	10,748	9,228	1,492	10,720	21,469
	Total expenses ($ million)	49	56	105	84	59	143	248
	Average expense per individual incurring expenses ($)	6,831	15,801	9,789	9,158	39,307	13,354	11,569

Source : Special compilation by Statistics Canada from HALS master data file.

The severely disabled population incurs $450 million of expenses, or about 37 per cent of the total of $1.2 billion in 1989 dollars. Other disabled persons account for $759 million in expenses. The average total expense per individual incurring expenses is $1,595 for the severely disabled population and $1,083 for the remaining disabled population. Across all individuals in each of the two categories, the average expense figures are $749 and $346.

Section II of Table 5.1 relates to the roughly 40 per cent of out-of-pocket expenses that is estimated to be ineligible for itemized tax assistance. The total amount of such expenses incurred by the severely disabled group is $201 million while other disabled persons account for $281 million. The severely disabled group therefore accounts for about 40 per cent of non-itemized expenses and, as shown in Table 5.1, includes about 30 per cent of individuals with such expenses. Only 22 per cent of the severely disabled group and 13 per cent of the non-severely disabled group are estimated to incur non-itemized expenses. The average non-itemized expenses per individual incurring such expenses is $1,550 for the severely disabled group and $983 for other disabled persons. Calculated across all individuals in each of the two categories, the average expenses are $335 and $128.

While not shown in the table, by far the largest component of non-itemized expenses are transportation costs. These amount to about $240 million for all disabled people, which constitutes about 50 per cent of estimated non-itemized expenses for both the severely disabled population and other disabled individuals. The next largest category of expenses not currently eligible to be itemized is personal services. It includes services such as housekeeping and home maintenance and accounts for 16 per cent and 10 per cent of total non-itemized expenses for each of the two groups of disabled people. Severely disabled elderly individuals, who receive both the DTC and the Old Age Tax Credit, incur slightly lower non-itemized expenses ($315) than do working-age individuals in that category ($354).

The third section of Table 5.1 relates to individuals who incurred non-itemized expenses in excess of $3,600 (1989 dollars).[23] Very few individuals fall into this "larger" expense category. The estimated number in the severely disabled population (10,748) is almost identical with that in the remaining disabled group (10,720). Because of the much larger size of the non-severely disabled population, the probability of an individual in that group

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23. At a combined federal/provincial tax rate of 26 per cent, the deduction equivalent value for the DTC of $3,272 in 1989 is fairly close to this level of expenses, which is why it was chosen.

being in the large expenditure category (about .5 per cent) is considerably lower than for the severely disabled group (slightly less than 2 per cent).[24]

Relationship Between Severity of Disability and Expenses

Table 5.2 shows, in greater detail, the relationship between the severity of disabling conditions and average out-of-pocket expenses incurred. The expense data in Table 5.2 include both expenses that are currently itemized and those that are not itemized for tax purposes. The severity of disability is measured by the HALS SIGADL index, which was described in Chapter 3.

The data in the fifth column of Table 5.2 indicate that, for those incurring out-of-pocket expenses, average expenses generally increase with severity of disability and that the relationship is particularly marked for the most severe categories of disability. For example, average expenses for those incurring any type of expense increase from $954 in the "moderately disabled" category to a high of $5,762 for the 3,305 individuals with scores greater than 30 (SIGADL scores encountered range from 1 to 39). The percentage of individuals who incur expenses ranges from a low of 32 per cent for those with SIGADL scores of 10 or less to 62 per cent for those with scores of more than 30. The combined effects of the higher expenses for those with expenses and of the probability of incurring expenses with increasing severity of disability is indicated in the sixth column of Table 5.2. When both factors are taken into account, average expenses across all individuals in each severity category increase from a low of $279 in the lowest severity category to a high of $3,548 in the most disabled category.

Effectiveness of the DTC and Medical Tax Credit in Compensating for Expenses of Severely Disabled People

Information from the HAL Survey on expenses of severely disabled people can be combined with taxation statistics on itemized medical expense claims for actual DTC claimants to assess the interaction between the DTC and the medical tax credit. Table 5.3 relates to the 302,254 DTC claimants for the 1988 taxation year. It shows that the total net medical claims (i.e., amounts that are in excess of the 3 per cent of net income threshold) for that group under the medical tax credit totalled only $54 million in 1988 dollars. Furthermore, only 31,418 individuals (or 10.4 per cent of the total population of DTC claimants) submitted any net medical claims for tax purposes.

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24. About 12 per cent and 5 per cent of, respectively, severely disabled individuals and other disabled individuals incur expenses in excess of $1,000.

Unfortunately, complete information on the amount of gross claims is not available from taxation data, so that we cannot directly examine the effect of the 3 per cent income threshold in reducing allowed tax relief. We can, however, assume that the average total out-of-pocket expenses and the average non-itemized expenses for individuals itemizing medical claims were the same as for the HALS-based severely disabled population of adults in households from Table 5.1. This permits us to calculate the separate effects of both the 3 per cent income threshold and the exclusion of certain types of expenditures from itemization.

Table 5.2

Average Out-of-Pocket Expenses[1] of Disabled Adults by Severity Level

Severity of Disability (HALS SIGADL Score)	Number of Individuals with Expenses	Total Number of Individuals in Category	Proportion of Individuals with Expenses	Average Total Expense (1989 Dollars) Per Individual Incurring Expenses	Average Total Expense (1989 Dollars) Per Individuals in Category
1-4 (mildly disabled)	345,945	1,255,202	.28	1,216	335
5-10 (moderately disabled)	372,865	978,025	.38	954	362
11 and over (severely disabled)[2]	263,865	549,352	.48	1,641	788
11-15	159,185	340,039	.47	1,406	659
16-20	69,620	137,450	.51	1,512	766
21-25 (severely disabled)	23,210	47,292	.49	1,925	944
26-30	8,545	19,204	.44	4,688	2,087
31 and Over	3,305	5,367	.62	5,762	3,548

1. Includes all medical and disability related expenses, irrespective of whether they are currently eligible for itemized tax assistance.

2. Unlike in Table 4.1, the severely disabled category has not been adjusted to include individuals who are blind, deaf or confined to a bed or a wheelchair and who are otherwise classified as mildly or moderately disabled.

With average out-of-pocket expenses of $749, the total of such expenses for 302,254 individuals would be $226 million. With average non-itemized expenses of $335, the total non-itemized expenses for these individuals would be $101 million, or 45 per cent of the total. The amount of expenses that is estimated to be eligible for itemization for the 1988 population of DTC recipients is therefore $125 million, or 55 per cent of the total. This is the estimated amount of **gross** claim, however, and only a portion of this would be eligible for tax assistance as a **net** allowed claim that is in excess of the threshold of 3 per cent of each taxpayer's net income. Since from Table 4.3 about $57 million ($54 million inflated to 1989 dollars) was actually claimed as **net** allowed medical tax credit claims for tax purposes by the 1988 population of DTC claimants, we estimate that the difference of $68 million, or about 30 per cent of total expenses, was insufficient in amount to exceed the 3 per cent of income threshold.

The amount of the DTC necessary to compensate (at the average federal plus provincial tax credit rate of 26 per cent) for the tax liability associated with the $101 million in non-itemized expenses of DTC recipients would be $26 million. To provide such assistance as well for the $68 million of expenses estimated to be excluded by the 3 per cent of income threshold of the medical expense tax credit would require about $44 million (.26 X $169 million) in tax assistance.

The estimated amount of federal plus provincial tax assistance provided by the DTC to DTC recipients in 1988 was $197 million in 1989 dollars. This amount is considerably more than would be required if, as some analysts might suggest, the purpose of the DTC were simply to extend tax credit treatment to expenses ineligible for assistance under the medical expenses tax credit, because of incomplete itemization or the effect of the minimum expense threshold.

The $197 million tax cost of the DTC plus the $15 million provided through itemized assistance to the 1988 DTC population serves to provide virtually full compensation, on average, for the $226 million estimated in the HAL Survey to be the medical expenses of the severely disabled population.

The tax cost of the DTC is about 13 times greater than the amount provided in itemized assistance to those receiving the DTC. Thus, the DTC is, in fact, the predominant vehicle for compensating for the pecuniary costs of severely disabled people while the medical tax credit for itemized expenses plays a much smaller role.

Table 5.3

Net Medical Expenses of DTC Recipients, 1988

Net Income	Net Medical Expenses Allowed		Total DTC Recipients			DTC Recipients with Net Itemized Medical Expenses		
	($000)	(%)	Number	(%)	Average Medical Expenses Allowed ($)	Nombre	(%)	Average Medical Expenses Allowed ($)
$0 - 5,000	734	1.4	20,439	6.8	36	475	1.5	1,545
$5,001 - 10,000	1,881	3.5	38,525	12.7	49	2,609	8.3	721
$10,001 - 20,000	20,181	37.4	109,839	36.3	184	14,665	46.7	1,376
$20,001 - 35,000	16,270	30.1	82,949	27.4	196	9,978	31.8	1,631
$35,001 - 50,000	6,782	12.6	30,714	10.2	221	2,124	6.8	3.193
$50,001 - 100,000	6,298	11.7	17,606	5.8	358	1,399	4.5	4,502
$100,001 & more	1,848	3.4	2,182	0.7	847	168	0.5	11,000
Total	53,994	100	302,254	100	179	31,418	100	1,719

Source : Revenue Canada-Taxation "Greenbook" data.

Income Levels and Medical Expense Claims

The value of medical expense claims of severely disabled individuals rises with their income levels. For example, the last column of Table 4.3 shows that the average net medical expense tax claim (per individual with a claim) for the 1987 DTC population rises from less than $1,000 for the lowest income groups to in excess of $10,000 for the highest income group. Several factors may contribute to this relationship. They include:

- income constraints on spending by lower-income claimants;
- greater coverage of expenses by government programs for lower-income claimants; and
- an element of discretion or personal consumption in the expenditures reported by higher-income claimants (e.g., the use of a private hospital room instead of a ward).

HAL Survey data provide some insight into the effect of income constraints on expenditures. For those individuals in the HALS-based "severely disabled" category, the average total out-of-pocket expenses for all severely disabled adults in households with total family income of less than $10,000, $10,000-$40,000, and over $40,000 are, respectively, $595, $551, and $890. The percentages of individuals with out-of-pocket expenses in each of these income categories are, respectively, 44 per cent, 49 per cent, and 43 per cent. Thus, higher income individuals incur higher expenses although their probability of incurring expenses is no greater than that for lower income individuals. Because low-income individuals are no less likely to incur disability-related expenses than high-income individuals and because less than 50 per cent of both groups incur any expenses, this suggests that such expenses are widely covered by insurance and government programs.

Income Levels of the Severely Disabled

The graph in Figure 4.1 shows the relationship between severity of disability (as indicated by the HALS SIGADL index) and median family income,[25] for both working-age disabled people (age 15 to 64 years) and elderly disabled people (age 65 and over) who were living in households. For comparison, the median family incomes of working-age and elderly non-disabled people are indicated on the vertical axis of the figure.

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25. The definition of family income used is Statistics Canada's concept of economic family income. See Chapter 3 for a description of this income measure.

As indicated by the light line in the graph, elderly disabled individuals do not on average have noticeably lower family incomes than elderly non-disabled individuals. This is probably due to factors such as the equalizing effects of government pension benefits and private pension incomes and the late onset of the disabling condition that in many cases may not have reduced earnings ability over active earning years. By contrast, as indicated by the heavy line in Figure 4.1, working-age disabled individuals do have significantly lower median incomes than non-disabled individuals.[26]

The relatively weak relationship between family income and severity of disability in Figure 4.1 suggests that providing compensation for restrictions in activities of daily living is not the same thing as providing compensation for lost earnings as a result of a disability. Indeed, two-thirds of individuals who indicated in the HAL Survey that they are completely prevented from working due to their condition are not in the HALS severely disabled category.[27]

Non-taxpaying Individuals

Benefits from the DTC go only to those who pay taxes. By combining information from data on both taxpaying and non-taxpaying Canadian families and the HAL Survey data base, we estimate that 26.5 per cent of the severely disabled population are unable to claim any amount of the credit because they have no "basic federal tax" payable.[28] An additional 9.4 per cent of individuals have insufficient basic federal tax payable to permit them to claim the full amount of the credit. In total, therefore, we find that about 36 per cent of severely disabled individuals would be unable to claim a full credit.[29]

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26. The more erratic swings in median incomes for both age categories for the higher severity categories primarily arise because of small numbers of individuals in each cell.

27. It should be noted, however, that only 24 per cent of working age individuals in the severely disabled category are in the labour force in comparison to corresponding figures of 60 per cent and 44 per cent for, respectively, mildly and moderately disabled people.

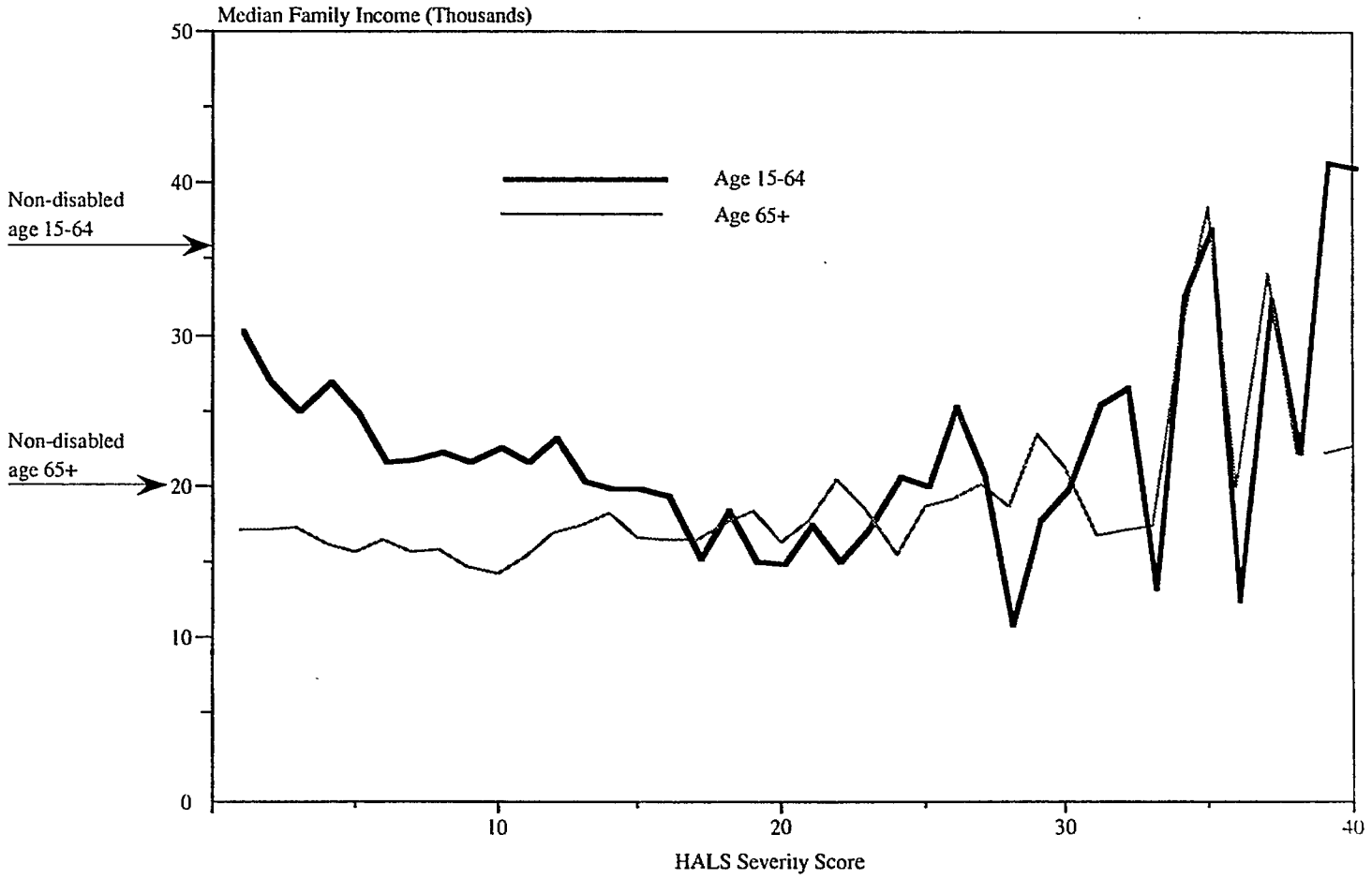
28. This was calculated by computing the percentages of Canadian families in each family income bracket who pay no "basic federal tax" and applying those percentages to the number of individuals in the equivalent family income brackets in the HALS data base. Taxable status on a family basis was used because a disabled person may transfer any unused DTC amount to other family members.

29. These figures apply only to disabled people living in households. No information is available on the incomes of the 180,025 severely disabled adults and children who were institutionalized in 1987.

As noted in Chapter 1, the DTC must be considered together with government expenditure and insurance programs that provide income support for lower-income disabled people. The total of such support is estimated to be about $7.75 billion for 1989.

Figure 5.1

Relationship Between Severity and Median Family Income (1985)



Note: Calculated from HALS microdata file

303-1863

SUMMARY

This chapter has examined the expenses incurred by severely disabled persons and the effectiveness of the DTC and the medical expenses tax credit in providing compensation for such expenses.

Data from the HAL Survey on out-of-pocket expenses indicate that many disabled individuals incur disability-related out-of-pocket expenses and that the average amount of expense and the probability of an individual incurring expenses both increase significantly with the severity of disability. About 50 per cent of severely disabled individuals incur some type of out-of-pocket expense each year, and we estimate that about 20 per cent incur types of expenses that are currently ineligible to be itemized under the medical tax credit or special part-time attendant deduction. Transportation expenses appear to account for about 50 per cent of expenses that are not eligible for itemization.

The DTC is the dominant instrument for providing tax assistance to severely disabled people for disability-related out-of-pocket expenses. The amount of federal assistance provided by the DTC (about $148 million in 1989) is about 13 times greater than the amount of federal assistance provided to severely disabled people through the itemization of disability-related expenses.

The DTC provides aggregate compensation that is roughly five times the tax assistance severely-disabled people would receive if all disability-related costs were eligible to be itemized under the medical expenses tax credit and that credit had no minimum expense threshold. Since the aggregate amount of assistance provided by the DTC is about equal to the total expenses incurred by recipients of the credit, it may be considered to serve the purpose of compensating the severely disabled for all their disability related expenses.

Because out-of-pocket expenses vary widely among severely disabled people, and because as a flat-amount credit the DTC does not differentiate among severely disabled individuals in terms of their underlying expenses, the credit is a somewhat blunt instrument for providing expense compensation. Moreover, out-of-pocket expenses, including uncompensated out-of-pocket expenses, are incurred by significant numbers of individuals throughout the full range of measured disability. Indeed, about 60 per cent of uncompensated out-of-pocket expenses are incurred by individuals who are not classified as severely disabled.

As well as compensating severely disabled persons for out-of-pocket expenses, the DTC serves to compensate severely disabled people for the general reduction in well-being arising from severe disabilities. The flat-amount form of the credit is appropriate to this role.

CHAPTER 6

INTERNATIONAL COMPARISON: TAX ASSISTANCE FOR DISABLED PEOPLE

INTRODUCTION

This chapter compares the income tax assistance provided to persons with disabilities in 15 OECD countries to that provided by Canada. The comparison is based on a survey of disability benefits in OECD countries prepared by the International Bureau of Fiscal Documentation in Amsterdam.

The main tax reliefs provided by these countries are outlined in the table on the following pages.

Many countries provide tax relief to a specifically defined population and most provide tax assistance for unreimbursed medical expenses. Measures focused on a particular subset of the disabled population take a variety of forms: flat-amount deductions (e.g., credit for blind persons in the U.K. and USA), income-tested deductions (e.g., in Germany, for those unable to work), tax credits (Spain), or enriched general personal exemptions (France). The amount of allowance may also depend on the degree of disability as measured by a scale developed and usually administered by a government department.

The defined population for disability allowances varies by country, ranging from receipt of a social security pension (Australia, Netherlands), to being able to earn only a fraction of the wage earned by someone with the same background and education (Belgium).

A brief discussion follows the table and a section is devoted to an analysis of the measures that compensate for medical expenses.

INTERNATIONAL COMPARISON OF INCOME TAX ASSISTANCE FOR PERSONS WITH DISABILITIES

COUNTRY	DISABILITY TAX MEASURES	ELIGIBILITY CRITERIA	AUTHORITY
Canada	Disability tax credit (DTC)	Markedly restricted in basic activities of daily living	Family doctor
	Infirm older dependant credit	Dependant by reason of an impairment	Family doctor
	Medical expenses credit	Broad list of items; expenses over 3% of income or $1,500.	Prescribed by family doctor
	Some benefits tax-free	Workers' Compensation, Veterans pensions.	Specially-trained physicians
Australia	Invalid dependent relative rebate (max A$450)	Permanently unable to work or in receipt of invalid pension	Dept of Health or designated doctors
	Medical expenses credit	Small list of items; expenses over A$1,000	Prescribed by family doctor
	Income-tested rebate.	Social security recipients unable to work	Same as for invalid credit
	Specified list of disability pensions tax exempt.	Generally social security security or war pensions	Government body

Belgium	Income-tested rebate	Receipt of disability pension. Eligible if 2/3 reduction or more in earning power	Government board
	Some benefits tax-free		
Denmark	Deduction for work-related transportation expenses	Normally a mobility impairment transportation costs above a floor.	Family doctor
Finland	Deduction for disabled	Permanent disability; degree of disability at least 30%. If less than 100% deduction prorated.	Family doctor
	Medical expense deduction	Expenses above a floor up to a limit related to family size.	N.a
	Allowance for those with reduced income due to illness	Also available to those who pay maintenance or are unemployed.	N.a
France	Income-tested deduction (max Cdn$1,650; no claim if income C$16,520+)	Those in receipt of veterans pension, or civilian war pension or workers compensation for disability of 40% or more; or possess an invalidity card.	Invalidity cards issued by government body
	Medical expenses credit to a ceiling	Invalidity card	

	Credit for older infirm child; larger basic credit for disabled	Invalidity card	
Germany	Maximum lump sum deduction equal to Cdn$2,095 for disabled. Amount varies by degree of disability	Definitions follow those used for social security inability to work.	Government administration .
	Can claim actual medical expenses if larger than lump sum deduction	Blind or those needing 3rd party care if greater than fixed deduction	
Italy	Medical expenses deduction.	Narrow list for costs above 5% of income for those who are severely disabled (i.e., 2/3 or more incapacitated)	Government board assesses degree of disability.
Luxembourg	Flat amount deduction for disability expenses (ranges from Cdn$150 to $760)	Depends on % reduction of work capacity; Blind persons get higher amount	Government board
	Claim actual expenses if higher than lump sum deduction		
	Tax credit for parents of child over age 21	Parents must provide for more than 50% of costs of care	
Netherlands	Flat-amount deduction	Under age 65 earning under 55% of "normal" wage	Government doctor

	Deduction for costs of support for disabled dependant that exceed base amount	Dependant ineligible for student bursary or child allowance	Government doctor
	Deductions for insurance premiums		
	Medical expenses deduction	Specified list. Expenses above 9% of income or a base amount plus 3% of income	N.a.
Portugal	Deduction of up to 65% of earned income to C$3,000	Disability rating of 60% or more	Government body
	50% increase in dependant tax credits for disabled	Permanently disabled; rating 60% or more	
	Medical expenses deduction.	Documented expenses.	
Spain	Disability credit; Cdn$505 (married),	Must be 33% or more disabled. Phased out as income rises.	Government body
	$490 (single)		
	Medical expense credit	Any substantiated expense; no limit	N.a.
	Credit for disability insurance premiums		
	Disability pensions tax free	Under age 65	

Sweden	Deduction for disabled; amount varies according to severity of disability	Available to permanently disabled and those with chronic illness	N.a.
Switzerland (Canton examples)*			
*no federal provisions	Medical expense deduction	Allowed to a ceiling. Must be prescribed. Includes some attendant care.	Family doctors
	Up to 50% exemption for disability pension	Relief declines as other income rises. Pension issued by social security body.	Government body
U.K.	Blind persons' allowance of C$1,080.	Blind	Registered with a local authority.
	War pensions tax exempt		
	Deduction for medical insurance premiums	Over age 65	
U.S.A.	Higher standard deduction for blind; US$750 (single), $600 (married), or	Blind	Certificate
	Credit of up to $750 and totally disabled and retired; max credit $750	Elderly or under age 65. Credit reduced by tax-free pensions (e.g., social security) and by 50% of income over $5,000.	Family doctor

Medical expenses deduction	Listed expenses over 7.5% of income	Family doctor
Some benefits tax-free	Workers' compensation	

GENERAL COMMENTS ON DISABILITY TAX MEASURES

Most of the 15 OECD countries surveyed provide income tax measures specifically to persons with disabilities. Each country's eligibility criteria differ in their complexity. While the table shows that it is difficult to generalize about tax assistance for disabled persons, there are some general observations that can be made.

In half of the surveyed countries, disability is assessed directly by listed impairments or "percentage impairment" based on listed impairments. Assessment of eligibility (usually by government medical personnel) by listed impairments may be medically more precise than is assessment by a family physician of the effects of impairment on basic activities of daily living. The use of "impairments" as the criterion of disability contrasts, however, with the general definition developed by the World Health Organization (1980) that "disabilities reflect the consequences of impairments in terms of functional performance and activity by the individual". The Canadian definition is more in line with the WHO approach, and thus, in principle, more equitable in its treatment of people with different disabilities.

The other half of the surveyed countries use a reduction in potential to earn income (or capacity to work) as the measure of disability. This conforms with the idea of assessing disability in terms of functional limitations, but focuses on the ability to earn income, rather than the ability to perform basic activities of daily living. In general, in determining eligibility for tax assistance for individuals who are disabled, there is much more focus than in Canada on the effects of disabilities on ability to earn income. This undoubtedly reflects the fact that social security eligibility rules in most countries are used to determine eligibility for tax assistance.

Under the Canadian system, the eligibility criteria for the disability tax credit are related to a person's capacity to function in a variety of basic activities which must be performed on a daily basis, rather than on the ability to work. It follows that taxpayers who receive disability benefits through the Canada Assistance Plan or Canada/Québec Pension Plans do not necessarily qualify for the DTC. Thus, unique to Canada, the criteria used to determine eligibility for relief under the tax and social welfare systems are quite different. By contrast, in the other OECD countries, there is a much closer linkage between the tax system and social security system, as the eligibility criteria for tax relief are frequently based on the definition of disability laid down in social security regulations.

Family doctors are involved in the eligibility determination in four countries. In Denmark, a doctor's statement is sufficient to qualify a disabled person for the higher work-home travel deduction. In Finland, where the amount of credit varies by degree of disability, the family doctor is used to assess the degree of restriction according to instructions of the Central Medical Board. In Germany, family physicians can confirm that the person meets the social security guidelines (unable to work by reason of an impairment). In the U.S., the inability to work test is assessed by a physician.

In a number of countries, disability tax measures are transferable from the disabled person to other family members if the disabled person is unable to use the measure due to insufficient income or tax payable. In many countries, lump sum payments are reduced as the individuals' or families' incomes increase. Because of this focus on benefiting lower-income taxpayers, the disability assistance in these countries places more emphasis on vertical equity than horizontal equity.

It is apparent that both fixed rebates or deductions (such as the DTC) and itemization for variable medical expenses are widely used in the income tax systems of OECD countries, and both measures must be viewed as practical approaches to providing tax relief for disabled individuals. In fact, many countries combine them.

ITEMIZATION OF MEDICAL AND DISABILITY-RELATED EXPENSES

While the information from the survey of the 15 OECD countries is not detailed enough to permit a precise comparison, it appears that the tax provisions for disabled people in Canada are relatively generous in several respects. For example, the 3 per cent net income threshold applicable to medical expenses in Canada is considerably lower than the expense thresholds in other countries, such as Finland (5 per cent of total income), Italy (5 per cent of aggregate income), the Netherlands (9 per cent of taxable income), and the U.S. (7.5 per cent of adjusted gross income). In addition, there is no maximum limit for medical expenses in Canada, unlike in countries such as Australia, Denmark, Finland, and Switzerland. In Canada, the combined federal and provincial DTC amount of $862 (or $3,272 deduction equivalent value at a combined federal and provincial marginal tax rate of 26 per cent) in 1989 is generous relative to that in other countries, such as Luxembourg ($152-$758 deduction), Finland ($768 credit), Portugal ($158 credit), and Spain ($492 credit). Also, the general medical tax credit in Canada covers most items that other countries include in itemized assistance to disabled persons, such as wheelchairs, prostheses, a full-time attendant, and home renovation costs for those who rely on a wheelchair for mobility.

Itemization of unreimbursed medical and other disability-related expenses of disabled people for tax purposes is widely permitted in the OECD countries, usually above a threshold so as to ignore "normal" medical expenses. In Australia, the list of itemizable expenses includes expenses on hospitalization, nurses, prescribed appliances and guide dogs, with a threshold of A$1,000 ($907). In Denmark, a deduction for transportation costs between home and work in excess of 2,000 Kr ($364) per annum is available. A doctor's statement that an individual is disabled and incurs more than average transportation expenses is sufficient to qualify the taxpayer for this deduction.

Similarly, in the Netherlands all medical expenses, including the cost of certain diets and transportation, are deductible. The list of medical expenses also includes qualifying equipment, as well as adaptation of dwellings and cars and other items specifically adapted for disabled persons. In addition, expenses for adoption, birth and death of disabled people are deductible. All of these expenses are deductible only insofar as they exceed 9 per cent of taxable income; a much higher threshold than the 3 per cent of income or $1,500 thresholds obtaining in Canada. Similarly the exempt threshold in the U.S. of 7.5 per cent is much higher than Canada's. In Portugal, education, training and rehabilitation may be claimed as expenses by a disabled taxpayer whose disability level is at least 60 per cent. The corresponding provision in Sweden states that all uncompensated expenses between 1,000 Skr ($192) and 10,000 Skr ($1,918), caused by a handicap or sickness, may be deducted from income.

Many countries have medical insurance, which reduces the need for itemized claims. In Belgium and the United Kingdom, for example, every citizen has broad medical insurance and there is no system of income tax expense deductions for disabled individuals. Premiums paid for health insurance in Belgium are deductible for all taxpayers. In the United Kingdom, deduction for health insurance premiums is allowed for taxpayers over 60 years of age.

Like Canada, Australia and Spain use a credit for itemized expenses, while a deduction is used in Denmark, Finland, Germany, Italy, Luxembourg, the Netherlands, Portugal, Sweden, the Swiss cantons of Geneva and Zurich, and the U.S.

Itemized medical and nondiscretionary expenses are normally transferable between spouses, and most countries allow a taxpayer to claim the medical expenses paid on behalf of a dependant.

ADDENDUM

This addendum briefly outlines a number of legislative and administrative changes relating to the DTC made subsequent to the completion of the evaluation.

The 1991 Budget significantly increased the amount of the DTC — from $575 to $700 for 1991. This results in a $1,085 credit when provincial tax is taken into consideration.

The Budget also dealt with two issues raised in the study. First, the study emphasized that existing *Guidelines* for the credit had no legal standing because they were not included in the *Income Tax Act* or regulations. The Budget announced that they would be included in the *Income Tax Act.* Second, because of the imprecision of the "markedly restricted" criterion, the study discussed the advisability of extending the number of medical conditions that are deemed to automatically qualify a taxpayer for the credit. The Budget followed this approach in specifying that incontinence is now listed as a qualifying criterion.

The Budget also extended the list of medical expenses that are eligible for the medical expenses tax credit. For example, the costs of part-time attendant care and renovations to the home to allow all mobility-impaired persons to be functional within their home now qualify for tax assistance.

Further, the study identified several administrative changes regarded as due for attention, such as eliminating inconsistencies on the credit certification form and improving follow-up forms used when questions arise about claimants' qualifications. Revenue Canada-Taxation has made or is planning changes to eliminate these problems. For example, changes have been made to form T2201 (DTC certificate) to reflect the 1991 budget changes. Also, the pamphlet "How to certify disabilities for income tax purposes" is being distributed more broadly than before. Finally, the study noted that consultation between Health and Welfare Canada and the medical profession could improve the precision of Revenue Canada's guidelines and the consistency of their application by family doctors. We understand that Health and Welfare Canada and Revenue Canada, Taxation has begun to carry out such consultation to refine and communicate the guidelines.

APPENDIX A

SUMMARY OF CURRENT LEGISLATION IN RESPECT OF THE DISABILITY TAX CREDIT AND THE MEDICAL TAX CREDIT

Disability Tax Credit Legislation

The DTC rules are contained in subsections 118.3(1) to 118.4(2) of the *Income Tax Act*. By paragraph 118.3(1) a credit of $700[57] (indexed for annual CPI increases in excess of 3 per cent) is substracted in determining basic federal income tax otherwise payable by an individual who has a "severe and prolonged mental or physical impairment".

By section 118.3, a person is considered to have a severe and prolonged mental or physical impairment if, as a result of the impairment, the person is markedly restricted in a basic activity of daily living. These terms are defined in subsection 118.4(1). An impairment is "prolonged" if it has lasted or can be expected to last for a continuous period of at least twelve months. By "markedly restricted" is meant that, even with the use of appropriate devices, medication, and therapy, the individual is unable (or requires an inordinate amount of time) to perform a basic activity of daily living. A "basic activity of daily living" means:

i) perceiving, thinking, and remembering;
ii) feeding and dressing oneself;
iii) speaking so as to be understood, in a quiet setting, a person familiar with the individual;
iv) hearing so as to understand, in a quiet setting, another person familiar with the individual;
v) eliminating (bowel and bladder functions); or
vi) walking.

By paragraph 118.3(4), the Minister of National Revenue may obtain the advice of the Department of Health and Welfare Canada in determining whether a claimant for the DTC has a severe and prolonged impairment.

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57. The federal DTC, as in the case of other tax credits, is computed by multiplying an eligible amount by a marginal tax rate of 17 per cent. In 1991, this amount was $4,118. For 1992, the eligible amount is $4,233 and the federal value of the credit is $720.

The impairment must be certified as such by a medical doctor or, where the impairment is an impairment of sight, by a medical doctor or an optometrist. Additional guidelines distributed to physicians[58] assist physicians in making a determination of disability, and specify that the fact that a person is unable to work, or is receiving a work-related disability pension due to his or her disability, is not "in itself sufficient condition for that person to be considered markedly restricted in the activities of daily living".

Since, in provinces other than Quebec, provincial tax payable is based on basic federal tax, a DTC claim by a taxpayer results in a reduction in provincial tax liability. The province of Quebec, which has its own income tax system, has a credit based on the same criteria as that for the rest of Canada.

By paragraph 118.3(1)(b), a completed certificate attesting to the impairment must be filed for a taxation year. In practice, most disabled taxpayers will need to file only one DTC certificate. By paragraph 118.3(1)(c), no DTC may be claimed in any year for which a claim is made by the individual under the medical expenses tax credit in respect of costs incurred for an attendant or for care in a nursing home by reason of the mental or physical impairment.

The rules relating to the transfer of DTC claims are contained in sections 118.3(2) and (3). In general, any unused DTC may be claimed by a taxpayer for a spouse, child or grandchild, or a dependant claimed under the equivalent-to-married credit, who has been certified by a physician as having a severe and prolonged mental or physical impairment. A taxpayer may also claim an unused credit for a disabled parent or grandparent who resides with the taxpayer.

A disability tax credit may be claimed by a parent for an institutionalized child if no medical expense claim is made in respect of remuneration paid for an attendant and the parent continues to be entitled to a personal credit in respect of the child (i.e., if the parent provides financial support for such things as food or clothing). An institutionalized adult may claim the credit provided no medical expense claim is made for fees paid to the institution or in respect of remuneration for a paid full-time attendant; an institutionalized adult may transfer unused credits to his or her spouse.

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58. ***How to Certify Disabilities for Income Tax Purposes***, Minister of Supply and Services.

Section 118.3(3) permits a partial DTC claim by a taxpayer in respect of an individual who transfers the credit to more than one person in a year.

Under the general reassessment rules in subsection 152(4), a taxpayer who neglected to claim a DTC in a year for which he was entitled to do so may subsequently apply for an adjustment to tax for a period of up to three years following the year in question.

Medical Tax Credit Rules

The medical expenses tax credit rules are contained in subsections 118.2(1) to (4) of the *Income Tax Act* and Regulation 5700. Revenue Canada, Taxation *Interpretation Bulletin* IT-519 provides further details on the interpretation and application of the legislation by the Minister of Revenue Canada.

Subsection 118.2(1) of the *Income Tax Act* provides for a medical expense credit of 17 per cent of an individual's total medical expenses in excess of the lesser of $1,500 in 1988 (indexed for annual CPI increases in excess of 3 per cent for subsequent years) and 3 per cent of the individual's net income for the year. A taxpayer may claim medical expenses incurred on behalf of the taxpayer, the taxpayer's spouse or an individual claimed by the taxpayer as a dependant for the year (paragraph 118.2(2)(a)). A provision in subsection 117(7) also permits a taxpayer to claim the medical expenses paid by him or her on behalf of a family member for whom a dependant credit could have been claimed had that person no income. To do this, the taxpayer must add 68 per cent of the individual's income over the basic personal amount of $6,000 (indexed to the percentage increase in the CPI minus 3 per cent) to his or her own basic federal tax.[59]

The amount of the medical expenses tax credit for unreimbursed eligible expenses is deductible from basic federal tax. The credit may be claimed in respect of qualifying expenses incurred in any twelve-month period ending in the taxation year. In the case of a deceased taxpayer, the credit may be claimed for expenses incurred for up to two years from the year of death. As with the DTC, a medical expenses tax credit claim also generates a reduction in provincial tax liability.

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59. The 68 per cent inclusion rate is designed to take into account the provincial tax that will also be computed on the additional amount.

Subsection 118.2(2) of the *Income Tax Act* sets out the general categories of medical expenses that qualify for the medical tax credit. These include: payments to medical practitioners, dentists and nurses, for medical services at a private or public hospital; remuneration for a full-time attendant to a patient and for care in a nursing home that provides attendant care; costs for an ambulance; travel expenses to acquire medical service unavailable locally; costs of prescribed drugs, medicines and preparations; laboratory, radiological or other diagnostic procedures; premiums paid to a private health service plan; seeing-eye and hearing-ear dogs; and devices and equipment prescribed by a medical practitioner that are listed in Regulation 5700 of the *Income Tax Act*. Recent measures add disability-specific home renovation costs for a person who has a severe and prolonged mobility impairment. A special deduction was introduced in 1989 for the costs of a part-time helper required to enable a severely disabled person to go to work.

There are several guiding principles that the Department of Finance has followed in adding new items to the list of those eligible for the medical tax credit. The expenditures must be medically "necessary", which means prescribed by a qualified medical practitioner. The items or services should be designed to provide medical relief to the patient and hence should not bestow incidental consumption benefits to the individual or to others. Thus, expenses associated with a tropical vacation for the relief of symptoms, or membership in a health club, would not qualify because of the "consumption" benefits to the taxpayer.

As with the DTC, under the general reassessment rules in subsection 152(4), a taxpayer who neglected to claim a medical tax credit in a year to which he was entitled to do so may apply for an adjustment to tax within three years following the year in question.

APPENDIX B

HAL SURVEY SCREENING QUESTIONS

A1 Do you have any trouble hearing what is said in a normal conversation with one other person? (0, 1, 2)

A2 Do you have any trouble hearing what is said in a group conversation with at least three other people? (0, 1, 2)

A3* If "yes" to A1 or A2: Are you able to understand what is being said over a normal telephone, with a hearing aid if used? (0, 1)

A4 Do you have trouble reading ordinary newsprint, with glasses if normally worn? (0, 1, 2)

A5 Do you have any trouble seeing clearly the face of someone from 12 feet/4 metres (example: across a room), with glasses if normally worn? (0, 1, 2)

A6* If "yes" to A4 or A5: Have you been diagnosed by an eye specialist as being legally blind? (0, 1)

A7 Do you have trouble speaking and being understood? (0, 1)

A8 Do you have any trouble walking 400 yards/400 metres without resting (about 3 city blocks)? (0, 1, 2)

A9 Do you have any trouble walking up and down a flight of stairs (about 12 steps)? (0, 1, 2)

A10 Do you have any trouble carrying an object of 10 pounds for 30 feet/5 kg for 10 metres (example: carrying a bag of groceries)? (0, 1, 2)

A11 Do you have any trouble moving from one room to another? (0, 1, 2)

A12 Do you have any trouble standing for long periods of time, that is, more than 20 minutes? Remember, I am asking about problems expected to last 6 months or more. (0, 1, 2)

A13 When standing, do you have any trouble bending down and picking up an object from the floor (example: a shoe)? (0, 1, 2)

A14 Do you have any trouble dressing and undressing yourself? (0, 1, 2)

A15 Do you have any trouble getting in and out of bed? (0, 1, 2)

A16 Do you have any trouble cutting your own toe nails? (0, 1, 2)

A17 Do you have any trouble using your fingers to grasp or handle? (0, 1, 2)

A18 Do you have any trouble reaching in any direction (example: above your head)? (0, 1, 2)

A19 Do you have any trouble cutting your own food? (0, 1, 2)

A20* Because of a long-term physical condition or problem, that is, one that is expected to last 6 months or more, are you limited in the kind or amount of activity you can do... At home? ... At school or at work? ... In other activities such as travel, sports, or leisure? (0, 1, 2)

A21* Has a school or health professional ever told you that you have a learning disability? (0, 1)

A22* From time to time, everyone has trouble remembering the name of a familiar person, or learning something new, or they experience moments of confusion. However, do you have any ongoing problems with your ability to remember or learn? (0, 1)

A23* Because of a long-term emotional, psychological, nervous or mental health condition or problem, are you limited in the kind or amount of activity you can do... At home? ... At school or at work? ... In other activities such as travel, sports, or leisure? (0, 1, 2)

Note: The six questions indicated with an asterisk were added by HAL Survey analysts, while the remaining 17 are the original questions developed by the OECD. The numbers in brackets following each question show the potential range of answers, with a "0" indicating "no difficulty experienced", a "1" indicating a "partially unable to" response, and a "2" indicating a "completely unable to" response.

APPENDIX C

FORM AND PHYSICIANS GUIDELINES

Revenue Canada Taxation | Revenu Canada Impôt

T2201
Rev. 91

Disability Tax Credit Certificate

Note: Please read the instructions on the attached information sheet carefully. It is important that you understand the eligibility requirements, and that you complete this form properly.

Part A

- This part is completed by the **applicant or representative** (please print).
- For more information, refer to the brochure, *How You Claim The Disability Tax Credit,* which is available at your district taxation office.

Name of individual making this claim	Address of individual making this claim		Social insurance number
Name of disabled person Self ☐ or	Maiden name	Date of birth of disabled person	Social insurance number of disabled person
Relationship of disabled person to claimant	Address of disabled person		

I hereby apply for the disability tax credit in accordance with the provisions of Section 118.3 of the Income Tax Act. I understand that additional medical information may be requested by Revenue Canada, Taxation's medical advisory service (Health and Welfare Canada) to ensure that the eligibility criteria have been met.

Signature of applicant or representative _____ Date _____ ( ) Telephone number _____

Note: The applicant will pay any medical assessment or form completion fees to have Part B of this form completed by a medical doctor or optometrist authorized to practise as such. Provincial medicare plans do not cover these fees.

Part B

- This part is completed by the **medical doctor or optometrist** who is knowledgeable about the disabling condition(s) for the year being claimed.
- For more information, see the "Eligibility Criteria Guidelines" on the attached information sheet, as well as the brochure *How to Assess Disabilities for Income Tax Purposes*, which is available to doctors and optometrists at the nearest district taxation office.

I. Particulars of disability

Date the impairment began 19	The duration of the impairment is permanent ☐ temporary ☐	If temporary, give the date the impairment ceased or is likely to cease ____ 19 ____

II. Category of impairment causing the individual to be markedly restricted all or substantially all of the time in his or her ability to perform basic activities of daily living (see Eligibility Criteria Guideline 3 on the attached information sheet). Check ( ) the following boxes as they apply.

1. Vision ☐ CNIB registration number (if applicable)

2. Mobility ☐	4. Mental functions ☐
3. Communication ☐	5. Other disabling impairments ☐

CONTINUED ON REVERSE ▶

III. Diagnosis of disabling condition outlined in Part II above and any other associated conditions causing the marked restriction in ability to perform basic activities of daily living.

(Attach a separate sheet if you need more space)

IV. Description of how the effects of the disabling condition outlined in Part II above and any other associated conditions cause the individual to be markedly restricted in his or her ability to perform basic activities of daily living. See "Eligibility Criteria Guidelines" on the attached sheet.

(Attach a separate sheet if you need more space)

In my opinion, the disabled individual named above has met the eligibility criteria of a **prolonged** impairment that **markedly restricts** all or substantially all of the time his or her ability to perform basic activities of daily living.

Signature of medical doctor or optometrist	Date	( ) Telephone number

I understand that I may be requested by Revenue Canada Taxation's medical advisory service, Health and Welfare Canada, to provide additional medical information concerning the medical history of the disabled person named above.

Name of medical doctor or optometrist (please print)	Address of medical doctor or optometrist

Disability Tax Credit Information

What is the disability tax credit?

The disability tax credit is a special credit available to individuals who have a **prolonged mental or physical impairment,** the effects of which are **severe**. For the purposes of entitlement to the disability tax credit, an individual is considered to have such an impairment only if the effects **markedly restrict** all or substantially all of the time the individual's ability to perform basic activities of daily living, **and** the impairment has lasted or can reasonably be expected to last for a continuous period of at least 12 months.

Who can use Form T2201?

An individual who is claiming a disability tax credit on his or her own behalf or on behalf of a dependant will file this form.

How is Form T2201 completed?

The applicant or representative completes **Part A** of the form.

The medical doctor or, in the case of a sight impairment, a medical doctor or an optometrist (authorized to practise as such) who is knowledgeable about the individual's disabling condition(s) for the year being claimed completes **Part B.**

Any medical assessment or form completion fees to have Part B of Form T2201 completed are the responsibility of the applicant or representative. These fees are not covered by provincial medicare plans.

When is Form T2201 filed?

One completed copy is attached to the income tax return of the individual making the claim for the first year the claim is being made. If the marked restriction in ability to perform basic activities of daily living is permanent, it is not necessary to file another Form T2201 in subsequent years unless the circumstances change, or unless Revenue Canada, Taxation advises otherwise.

Form T2201 – Verification of information

Revenue Canada, Taxation continues to be responsible for ensuring the accuracy of claims such as the disability tax credit. The Department may get advice from its medical advisory service (Health and Welfare Canada) about whether or not you or the person for whom you are claiming meets the eligibility criteria. Therefore, you may be contacted by Health and Welfare Canada for more information about your impairment or your dependant's impairment some months after your Notice of Assessment has been issued.

For more information

If you need more information about the disability tax credit, please see the brochure, *How You Claim the Disability Tax Credit*, or contact your district taxation office.

Eligibility Criteria Guidelines

An individual who has a **prolonged** impairment, the effects of which are **severe**, may qualify for the disability tax credit. For the purposes of the disability tax credit, the following definitions apply:

1) **Prolonged** means the impairment has lasted for a period of at least 12 continuous months ending in the taxation year, or has commenced in the taxation year and is expected to continue for at least 12 continuous months. Impairments lasting a period of less than 12 months, or which are intermittent, are not considered prolonged.

2) **Severe** means the effects of the impairment **markedly restrict** all or substantially all of the time the individual's ability to perform **basic activities of daily living**. Therefore, not only the diagnosis or condition is considered, but, most importantly, how the condition affects the individual's ability to perform basic activities of daily living.

3) A **marked restriction** is one in which the effects of the impairment cause the individual all or substantially all of the time to
   a) **be unable** to perform basic activities of daily living even with the use of appropriate devices, medications, or therapy; or
   b) take **an excessive amount of time** to perform basic activities of daily living, even with the use of appropriate devices, medications, or therapy.

4) **Basic activities of daily living** are those basic functions that need to be performed on a daily basis. They **do not include** such activities as working, recreation, housekeeping, or social activities. For the purposes of the disability tax credit, basic activities of daily living are categorized as follows:
   a) **feeding and dressing** oneself;
   b) **eliminating** (bowel and bladder functions);
   c) **walking**;
   d) **speaking** so as to be understood in a quiet setting by a person who knows the individual (unfamiliarity with a spoken language is not a criterion for eligibility);
   e) **hearing** so as to understand in a quiet setting a conversation with a person who knows the individual (unfamiliarity with a spoken language is not a criterion for eligibility);
   f) **cognitive functions**, namely perceiving, thinking, and remembering.

Visual Impairments: Individuals who are legally blind in both eyes or the equivalent are considered markedly restricted all or substantially all of the time in their ability to perform basic activities of daily living.

Important note about children

When assessing a child for the purposes of the disability tax credit, both the child's developmental progress in relation to the norm as well as the prognosis of the condition as it will affect his or her ability to perform basic activities of daily living (as evaluated by the child's doctor or optometrist) are relevant. It may be necessary to re-evaluate the child's condition and actual ability to perform basic activities of daily living at a later age.

Revenue Canada Taxation
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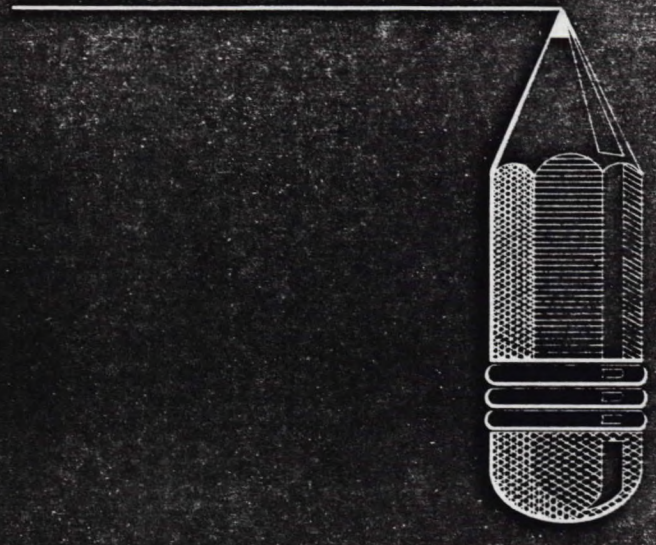
How to Assess Disabilities for Income Tax Purposes

- **Eligibility criteria guidelines for the disability tax credit**
- **Assessing a disability**
- **Diagnostic references**



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This brochure is only a guide. It explains in plain language some of the provisions of the Income Tax Act.

Copies of this brochure are available free of charge from district taxation offices.

This brochure was prepared by the Examination Division and the Communications and Consultations Branch, in conjunction with Health and Welfare Canada.

Tax Year 1991

Contents

Introduction

We at Revenue Canada, Taxation have received many enquiries and comments from physicians and optometrists whose patients have asked them to complete Form T2201, "Disability Tax Credit Certificate."

Because of these requests, we have produced this brochure. It explains the factors you have to consider in determining whether or not your patient has a prolonged mental or physical impairment, the effects of which are severe.

The guidelines in this brochure will help you evaluate the effects of various impairments for the purposes of the disability tax credit.

Eligibility criteria guidelines

A person who has a prolonged impairment, the effects of which are severe, may qualify for the disability tax credit. To help you determine this, consider the following definitions.

1. Prolonged impairment

A prolonged impairment is one that

- has lasted for at least 12 continuous months ending in the taxation year; or
- has begun in the taxation year, and is one you expect to last for at least 12 continuous months.

Note

Impairments that last less than 12 continuous months, or which are intermittent, are not considered prolonged for the purposes of the disability tax credit.

2. Severe

A severe effect means that the effects of the prolonged impairment markedly restrict **all or substantially all of the time** the person's ability to perform basic activities of daily living.

Therefore, you evaluate the **effects** of the impairment, not simply the impairment itself. For the purposes of the disability tax credit, remember to base your evaluation on the following definitions:

a) A **marked restriction** is one that causes the person to

- be unable to perform basic activities of daily living, **even with the use of** appropriate devices, medications, or therapy; or
- take an excessive amount of time to perform basic activities of daily living, **even with the use of** appropriate devices, medications, or therapy.

Note

For the purposes of the disability tax credit, it is essential that the marked restriction exist all or substantially all of the time.

b) **Basic activities of daily living** are those basic functions that need to be performed on a daily basis. For the purposes of the disability tax credit, only those persons who experience a marked restriction all or substantially all of the time in their ability to perform in at least one of the following categories of basic activities of daily living will qualify:

- **feeding and dressing** oneself;
- **eliminating** (bowel and bladder functions);
- **walking;**
- **speaking** so that in a quiet setting the individual can be understood by a person who knows him or her (unfamiliarity with a spoken language is not a criterion for eligibility);
- **hearing** so that in a quiet setting the individual can understand a conversation with a person who knows him or her (unfamiliarity with a spoken language is not a criterion for eligibility); or
- **cognitive functions**, namely perceiving, thinking, and remembering.

Note

For the purposes of the disability tax credit, basic activities of daily living **do not include** activities like working, recreation, housekeeping, or social activities.

c) **Visual impairment**

People who are legally blind in both eyes or the equivalent are considered markedly restricted all or substantially all of the time in their ability to perform basic activities of daily living.

3. **Assessing a child**

When assessing **a child** for the purposes of the disability tax credit, consider the following factors:

- the child's developmental progress in relation to the norm; and
- the prognosis of the condition, as it affects the child's ability to perform basic activities of daily living.

Assessing an impairment

There is a wide range of circumstances and a variety of impairments that can affect a person's ability to perform basic activities of daily living. This brochure does not attempt to provide an all-inclusive list of qualifying impairments.

As physicians, you are familiar with the New York Heart Association's or the Canadian Cardiovascular Society's functional classification of heart disease. You can also use other functional classifications to relate the impairment to a person's ability to perform basic activities of daily living, and to determine whether or not the person meets the eligibility criteria guidelines outlined earlier in this brochure.

The Appendix at the back of this brochure gives a partial list of prolonged impairments that generally cause people to be markedly restricted all or substantially all of the time in their ability to perform basic activities of daily living.

Completing Form T2201

Once you have completed your professional assessment and you have determined that your patient has a prolonged impairment, the effects of which are severe, you can then complete that person's Disability Tax Credit Certificate.

The person claiming the disability tax credit or his or her representative fills out Part A of Form T2201. Only a medical doctor or optometrist authorized to practise as such, and who is knowledgeable about the person's impairment for the year being claimed, can complete Part B.

For more information

If you need more information, please call our medical advisory service at 1-800-267-6567 (toll-free).

Appendix A

The following are some examples of what may cause a marked restriction in ability to perform basic activities of daily living.

Note

It is essential that the marked restrictions exist all or substantially all of the time.

I. Visual function

- The person is legally blind in both eyes (i.e., visual acuity of 20/200 (6/60) or less after correction in the **best eye**, or 10 degrees or less of visual field in the **best eye**).
- The person has other visual impairments that cause him or her to be markedly restricted in ability to perform basic activities of daily living in familiar surroundings (e.g., severe macular degeneration).

II. Mobility

- The person is confined to a bed or relies on a wheelchair for a substantial part of the day (e.g., paraplegia, quadriplegia).
- The person has severe arthritis which involves multiple major joints and causes him or her to be markedly restricted in ability to perform basic activities of daily living.

III. Communication

- The person is profoundly and bilaterally deaf, as shown by the inability of that person to understand a conversation in a quiet setting with another individual who knows that person, even with the use of appropriate hearing aids. You should confirm the severity with audiograms.
- The person has expressive and sensory aphasia, which produces severe restrictions in comprehension or conversation.
- The person's speech is impaired because of abnormalities that make that person unable to be understood in a quiet setting by another individual who knows that person.

IV. Mental functions

- The person's ability to perceive, think, and remember is markedly restricted when he or she needs supervision to perform self-care activities. Self-care activities are dressing and bathing, and feeding and eating.

V. Other disabling impairments

- **Cardio-respiratory system**

  The person experiences dyspnea or angina while performing basic activities of daily living, or while at rest.

- **Neurological system**

  - **Epilepsy**

    Normally, epilepsy is not considered a condition that causes marked restrictions in ability to perform basic activities of daily living. However, if the epilepsy or treatment does cause marked restrictions in ability to perform basic activities of daily living, the person may be eligible for the disability tax credit.

  - The person has any neurological disorder that causes him or her to be markedly restricted in ability to perform basic activities of daily living. For example:

    - severe ataxia
    - bowel or bladder incontinence
    - marked decrease in mentation (please see Section IV)
    - marked dysarthria (please see Section III concerning speech impairments)

- **Genito-urinary system**

  The person has genito-urinary disorders that cause him or her to be markedly restricted in ability to perform basic activities of daily living, despite treatment or medication. For example:

  - A person, even though he or she receives peritoneal dialysis, may be markedly restricted in his or her ability to perform basic activities of daily living.

  - A person has renal failure and needs 12 or more hours a week of haemodialysis. Because of the immobility necessitated by the frequency of these treatments, as well as the effects of the conditions between treatments, a person would generally be markedly restricted in his or her ability to perform basic activities of daily living. However, each case is assessed on its own merits.

- **Endocrine system**

  Normally, endocrinological disorders are not considered to cause marked restriction in ability to perform basic activities of daily living. However, associated complications can cause marked restrictions. For example:

  - Diabetes mellitus that causes peripheral vascular insufficiency and markedly restricts mobility is considered to cause a marked restriction in the ability to perform basic activities of daily living (please see Section II).

- **Multiple body systems**

  Although one clinical condition may not cause marked restrictions in the ability to perform basic activities of daily living, complications of the condition or the involvement of multiple body systems may. For example:

  - Disseminated lupus erythematosus involving the renal, cardiac, pulmonary, gastrointestinal, or central nervous systems may cause marked restrictions in the ability to perform basic activities of daily living.

- **Cancer**

  Eligibility for the disability tax credit is not related to a diagnosis, but to the severity and effect of the cancer on the person's ability to perform basic activities of daily living.

- **Upper extremity impairment**

  An impairment of the upper extremity that lasts at least 12 months and causes a marked restriction in feeding and dressing oneself, even after the use of aids, assistance, or a prosthesis, is considered to cause marked restrictions in the ability to perform basic activities of daily living.

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