

December 22, 2003

The Honourable Ralph Goodale, P.C., M.P.  
Minister of Finance  
21st Floor, East Tower, L'Esplanade Laurier  
140 O'Connor Street  
Ottawa, Ontario K1A 0G5

The Honourable Stan Keyes, P.C., M.P.  
Minister of National Revenue  
7th Floor, Connaught Building  
555 MacKenzie Avenue  
Ottawa, Ontario K1A 0L5

Dear Ministers:

On behalf of the Technical Advisory Committee on Tax Measures for Persons with Disabilities, we are writing to inform you of the status of the Committee's work and the direction of our current deliberations. As you know, the Committee was announced in the 2003 Budget to advise the Ministers of Finance and National Revenue on disability-related tax measures. The Committee was appointed in April 2003 and is composed of members of organizations representing persons with disabilities, health practitioners and private sector tax experts. (Brief biographies of committee members are attached.) As we are now almost half way through our 18-month mandate, we thought it would be appropriate to update you on our progress.

The Committee's mandate is to make recommendations that would assist the federal government in improving the fairness of the treatment of persons with disabilities under the income tax system. The 2003 budget set aside \$25 million in 2003-04 and \$80 million per year starting in 2004-05 to improve these measures. The Committee is reviewing concerns that have been identified regarding the present disability tax credit (DTC), the medical expense tax credit (METC) and other tax measures affecting persons with disabilities. Given the history and strongly held views on this subject, our work is, not surprisingly, a complex and challenging task.

Tax credits and deductions targeted at persons with disabilities play an important role in ensuring the tax system is fair by recognizing the effects of disability-related expenditures on the ability to pay tax. In light of the importance of these tax measures, it

is essential to ensure that all persons with disabilities who are entitled to this tax assistance receive it. The tax system also can play a role in the federal government's broader objective of encouraging the full participation of persons with disabilities in Canadian society, although the tax system's nature may limit the extent to which it can be used in fulfilling this policy role.

In recent years, individuals and organizations have raised significant concerns with respect to federal tax measures for persons with disabilities. The Committee is working on the major issues identified in recent reports of the Parliamentary Sub-Committee on the Status of Persons with Disabilities, in submissions to previous federal government task forces and parliamentary committees, and in the 39 new submissions to our Committee over the course of the summer and fall. These have proven to be invaluable and of great assistance to our deliberations.

Recommendations from these submissions focus primarily upon the DTC and the METC, and relate to policy intent, legislative provisions, administrative issues and public awareness. In our work to date, we have paid particular attention to two broad areas: the administration of the DTC and its criteria for eligibility.

The Canada Customs and Revenue Agency (CCRA) administers the DTC, and is responsible for the design and processing of the T2201 form used to establish DTC eligibility. Our review of submissions and relevant background materials has identified a number of concerns regarding the structure and administration of the process for confirming eligibility for the credit. These concerns include the various administrative steps involved in the initial determination of eligibility, ranging from questions about the design of the T2201 form to the fairness and transparency of the adjudication of claims. Beyond this initial determination, problems have been noted around the appeals process for individuals whose claim has been denied.

Our preliminary review of the administrative and appeal procedures has found that specific policies already are in place to address many of the issues that have been brought to our attention. There is a need, however, to ensure more consistent and appropriate implementation of these procedures. Improved administration also could reduce the number of cases in which taxpayers dispute the decisions of the CCRA on eligibility.

At the same time, we acknowledge that the CCRA recently has made progress in improving its administration of the eligibility processing. The CCRA has engaged in a broad-ranging consultation with respect to the design of the T2201 form, resulting in a revised form, which will be in use in 2004. The new form will not address some important concerns about the legislative provisions in the DTC or even the processing of

claims, but the consultative process employed by the CCRA was deemed helpful in responding to the views of the community of persons with disabilities. We encourage the CCRA to track changes in claims outcome and beneficiary profiles to determine the impact of the new design and to continue its process of consultation with selected stakeholders around the processing of claims, appeals and communications with taxpayers.

The legislative and interpretive issues associated with eligibility for the DTC comprise another major area of our work. A number of submissions propose the extension of eligibility to groups that currently do not qualify for the DTC. These include otherwise qualifying individuals with mood disorders, learning disabilities and episodic conditions that substantially impair their ability to carry out a basic activity of daily living. We support the extension of eligibility to these individuals and we currently are exploring the interpretive and/or legislative changes that would be required to effect such change along with the associated costs. We are examining as well the scope of the functions now considered as activities of daily living for the purposes of determining DTC eligibility.

In addition to these two broad areas, the Committee has received numerous representations, which suggest that information and communication must be improved to make Canadians more aware of the availability of disability-related tax measures such as the DTC. We believe that there should be a major effort on the part of the government to better communicate with those who may be eligible for such tax assistance, and to increase fairness and transparency in responding to the needs of persons with disabilities. We are considering possible mechanisms to promote awareness, including the provision of targeted information to qualified professionals and to groups representing persons with disabilities. Our website ([www.disabilitytax.ca](http://www.disabilitytax.ca)) is intended to achieve this purpose as well.

Similar concerns have been raised in relation to the METC. Several organizations have noted that many persons with disabilities are unaware of the fact that certain disability-related expenses are eligible to be claimed under this credit. At the very least, it is essential to promote awareness regarding this dimension of the METC. In recognition of continual technological change, we have identified the need for an ongoing mechanism to provide information on new technologies and other disability-specific or medically related developments.

The current beneficiary profile of the DTC and projected trends over the coming years also raise important questions about future pressures on the DTC and the METC, especially within the context of an aging society. Approximately 420,000 Canadians, for example, currently benefit from the DTC. Projections provided to the Committee suggest that fully two-thirds of DTC claimants will be over age 65 by 2031. We believe that the DTC may not be the appropriate instrument to provide tax relief for an aging population and that a different policy measure might be more suitable for this purpose.

The Committee is considering as well the key tax measures for caregivers that are intended to reflect their reduced ability to pay tax. We are looking at the adequacy and effectiveness of these measures within the context of the range of supports that help those caring for persons with disabilities.

The Committee is discussing another concern that has been brought to our attention: the fact that grants intended for the purchase of disability supports are often subject to income taxation. We are exploring possible remedies, including the removal of income taxation of these items or their offset by corresponding deductions or credits.

In the coming months, the Committee will be developing detailed recommendations to address the wide range of concerns identified regarding the DTC and other disability-related tax measures. Beyond these immediate concerns, the Committee has been considering issues relating to the purpose and effectiveness of the present range of tax measures for persons with disabilities, and reviewing more fundamental and long-term ways of restructuring these measures.

The DTC, for example, currently recognizes the effects of disability-related costs on the ability to pay tax. As a result, it plays only a limited role in offsetting disability-related expenses in terms of both the assistance it provides and the proportion of the population it reaches. Given that many low-income individuals do not pay income taxes, they are less likely to benefit from the DTC and other tax-relieving measures. The Committee recognizes that governments have a number of other potential tools at their disposal to respond to the specific and diverse needs of persons with disabilities, and we will be considering some of those options.

A related concern arises from the fact that many Aboriginal Canadians with disabilities do not benefit from income tax credits and deductions. The problem is compounded by the additional barriers that this population faces related to jurisdictional complexities, lack of access to supports and services, and higher costs of disability-related supports in northern and remote parts of the country. The difficulties are especially troubling in light of the demographic reality: the incidence of disability among Aboriginal Canadians is more than twice that of the Canadian population.

Finally, we are exploring the purpose, scope and coverage of disability-related tax provisions within the broader government agenda of advancing the inclusion and full citizenship of persons with disabilities, which we firmly believe will strengthen the social foundations of our country. There are measures in the income tax system, for example, that recognize the cost of accommodating employees and others with disabilities. The Committee is examining potential improvements to these measures with a view to reducing the barriers faced by persons with disabilities who wish to move from programs of income support to paid employment. We believe that achieving this objective will

make the best use of the skills of persons with disabilities and ultimately contribute to building a stronger economy. We also are discussing the duty to accommodate the special needs of persons with disabilities relating to access so that the additional costs of disability – now borne primarily by individuals and offset partially by various tax measures – might be shared more broadly by all sectors of society.

In closing, the Committee wishes to thank you and your officials for the excellent support and co-operation which both of your Departments have provided to us to date. We look forward to submitting our report to you in the fall of 2004. In the interim, we would welcome the opportunity to meet with you to discuss our short-term priorities for improving tax assistance for persons with disabilities.

Yours sincerely,

The image shows two handwritten signatures in black ink. The signature on the left is 'Sherri Torjman' and the signature on the right is 'Robert Brown'. Both are written in a cursive, flowing style.

Sherri Torjman  
Co-Chair

Robert Brown  
Co-Chair

Enclosure

**TECHNICAL ADVISORY COMMITTEE ON TAX MEASURES FOR  
PERSONS WITH DISABILITIES  
LIST OF MEMBERS**

1. **Sherri Torjman** (co-chair), Vice-President of the Caledon Institute of Social Policy, a non-profit social policy research organization. Ms. Torjman has written extensively on disability matters and other social policy issues. She also worked for the House of Commons Committee on the Disabled and the Handicapped in 1981.
2. **Robert Brown** (co-chair), a tax expert who served as the Clifford Clark Visiting Economist—a key advisory position in the Department of Finance—from 1998 until 2001. He has also served as Chairman of PricewaterhouseCoopers, Chair of the Canadian Institute of Chartered Accountants and Chair of the Canadian Tax Foundation.
3. **Brian Arnold**, a tax lawyer with Goodmans LLP and Professor Emeritus at the University of Western Ontario. Mr. Arnold has also served as a consultant on tax matters to various government organizations, including the Department of Finance, the Auditor General of Canada, the Canada Customs and Revenue Agency, the Organisation for Economic Co-operation and Development and the Australian Tax Office.
4. **Michael Bach**, Executive Vice-President of the Canadian Association for Community Living, a national advocacy organization to advance the human rights and inclusion of people with intellectual disabilities and their families. For a number of years Mr. Bach was the Director of Research and Vice-President at The Roehrer Institute, a national institute for research on disability, public policy and human rights.
5. **Laurie Beachell**, National Coordinator, Council of Canadians with Disabilities, a national advocacy association of persons with disabilities. Mr. Beachell has also acted as Special Advisor to the Federal Task Force on Disability Issues and was a member of the Advocacy Working Group for the Voluntary Sector Initiative. Mr. Beachell has served on numerous boards and committees related to the issues of Canadians with disabilities.
6. **Harry Beatty**, a lawyer and consultant specializing in disability law. Mr. Beatty has written several papers and reports on aspects of Canada's programs for persons with disabilities, and has participated in government and community consultations on these topics over the past 20 years. Mr. Beatty was formerly the Director of Policy and

Research at ARCH: A Legal Resource Centre for Persons with Disabilities. Prior to joining ARCH in 1986, he was Legal Counsel at Community Living Ontario.

7. **Dr. Gail Beck** is the Acting Associate Secretary General and Director of the Office for Women in Medicine at the Canadian Medical Association. Dr. Beck practices child psychiatry in Ottawa. She is the President of the Academy of Medicine of Ottawa, the Chair of the Ontario Medical Association's Committee on Women's Issues, and was the founder of the Maternity Leave Benefits Plan in Ontario. Dr. Beck was also the founder of the Ontario Medical Association's Mentorship Program for Medical Women.
8. **Gary Birch**, Executive Director, Neil Squire Foundation. Dr. Birch is also an adjunct professor at the University of British Columbia, and chair of the Minister's National Advisory Committee for Industry Canada on Assistive Devices.
9. **Lembi Buchanan**, public relations consultant and the Chair of the Coalition for Disability Tax Credit Reform. Ms. Buchanan has written on and advocated extensively for tax fairness for Canadians with disabilities.
10. **Dr. Karen R. Cohen**, Associate Executive Director (AED) and Registrar of the Canadian Psychological Association (CPA). Dr. Cohen has a PhD in the area of Clinical Psychology and post-doctoral training in rehabilitation and neuropsychology. Prior to assuming her AED position at the CPA, she worked in a variety of clinical and administrative roles at a rehabilitation centre.
11. **Yude M. Henteleff**, C.M., Q.C., Senior Counsel to the Winnipeg law firm Pitblado and Honorary Solicitor, Learning Disabilities Association of Canada. Mr. Henteleff has also served as President of the Learning Disabilities Association of Canada and as a Commissioner on the Canadian Human Rights Commission.
12. **Guy Lord**, a partner in the Taxation Department at the law firm of Osler, Hoskin & Harcourt LLP. Mr. Lord has held senior positions in the Department of Finance including those of Director General, Tax Policy and Legislation, and General Tax Counsel. He was also Professor and Assistant Dean at the Faculty of Law of the Université de Montréal.