
PRESENTATION NOTES

- Formed in 1982 to be the voice of hard of hearing and deafened Canadians.
- Includes approximately 90% of the approximately 3,000,000 (three million) Canadians with hearing loss.
- Hearing loss is the largest disability in Canada.
- The Canadian Hard of Hearing Association (CHHA) was formed to give visibility to this invisible disability.
- Main objective is to promote self-help among hard of hearing and deafened person.
- Encourage support for individual and collective action.

CHHA works to eliminate the isolation, indignation, and frustration of hard of hearing and deafened persons by assisting in increasing personal self-esteem and confidence which will lead to total integration in society. Part of our vision: CHHA serves as the voice for the issues and concerns of HOH and deafened persons in Canada.

PRESENTATION

I wish to open my presentation by commenting on the unacceptable practice to call a meeting at the last minute. To function properly we need time to prepare, technology such as ALD equipment and/or captioning and/or oral facilitation as I for one do not want to miss a word of the discussion, thus my (hearing) disability. I, for one, cannot function in the real world with out understanding, technology, planning and effective communication.

Second, I wish to indicate that CCRA appears to be applying a rather bizarre approach with their DTC Sweep that is insulting, hurtful and disgraceful when approaching people who have a **PERMANENT** disability(ies)

and meet the criterion of eligibility. We are taxpaying citizens of this land and being treated like this is disrespectful, undignified and unnecessary.

So how are we going to arrive at solutions? First, the problems followed by solutions. Throughout my presentation when I refer to HOH and also include persons who are deafened.

PROBLEMS:

- P1. Hearing disabilities as like many others are INVISIBLE to most people. That is to say, we do not live life in the same fashion as do people without disability. We cope through strategy, patience, and perseverance. We do survive through support groups, technology, family and friends.
- P2. DTC questions are restrictive, vague and unfair. Government gives the impression they don't want or care about profession/medical opinion care what professionals feel. Government appears to be heavily weighted by the fiscally concern versus the human resource.
- P3. On the 1st page of the DTC form (T2201 E (00)), it states “ *If you have qualified, do not file another form unless your previous period of approval has ended or we ask you to send in a new form*”. This statement is questionable. I have never heard of a period of disability unless it is a short-term period due to an accident or medical problem. This needs clarification
- P4. The DTC review described in the letter refers to eligibility being reconsidered for the **2001** taxation year. Past returns are not being considered retroactively through this initiative. However the Tax authority then state that it is possible that some DTC recipients will have claims reviewed and/or disallowed retroactively. As I understand it, the taxpayer would receive a letter different from the form letter already sent out. **In that case, they would pursue their appeal rights, as described in the General Income Tax Guide from CCRA.**

A major delay and cost to the taxpayer and not the way to build trust. This is a severe form of authoritarianism and intimidation, not to say

that it will be costly for everyone involved, a David & Goliath approach.

- P5. The cost to the individual is a major barrier to that individual depending on the person's needs. Costs include hearing aids, assistive technologies, preventative maintenance, batteries, buying new equipment and so forth.
- P6. Per the DTC letter, *currently updating our records etc (initial paragraph of the letter)*. This is a hunting expedition of the lowest form. It scares and intimidates people, a vile tactic to say the least.
- P7. The DTC letter further states, *In reviewing you new Form T2201, we may need to contact you, etc.* The initial form should be comprehensive so to allow the taxpayer dignity, not fear of the authorities and the fear of consequence.
- P8. It does appear that decision-makers and policy writers are giving confusing signals. The letter states, "if you wish, you can wait and submit the completed certificate with your 2001 income tax return." When I spoke with a tax agent last week, I was told it would take up to 4 months to evaluate DTC. The Taxpayer is not aware of the process and thus receives a false expectation. This is absurd. The directive should clearly state the process and time lines for all to know and work by – it provides consistency.
- P9. The criterion is very stringent. If you can understand a conversation WITH hearing aids or implant on, in a quiet room WITHOUT lip-reading – you do NOT qualify for the exemption. **Degree of hearing loss doesn't really matter to the bureaucrat.** The way it is written there is **no room for other interpretations.** This assumes that the HoH live in a quiet isolated environment as opposed to the rest of the population.

This criterion does not necessarily reflect the individual's day to day environments and difficulties. It means in fact that few HOH actually qualify. This is so inappropriate and heartless when a diagnosis is not even considered.

SOLUTIONS:

- S1. Work together to arrive at understanding and awareness of the issues. CCRA should have organized focus groups to review the new and revised forms. These focus groups should include organizations, physicians and professionals, such as audiologists, who deal directly with the Hard of Hearing and (HoH) taxpayer whose lives are directly affected by these changes. See Task Force Recommendation 52.
- S2. Ensure that all CCRA (Tax Department) officials are working from the same page so that taxpayers receive consistent and accurate information at all times. CCRA should focus on the wording of the form so that it will be less discriminatory and properly include people. Should consult with HOH again, particularly to deal for example with the issue of C.I.
- S3. Under *Earlier version of Form T2201. Definitions – disability tax credit*: it says **....it is one of the key existing tax mechanisms for recognizing the costs of disability”** – The current form is missing this important piece of information. There is no description to factor in the excessive cost of a disability. In the case of cochlear implantees – costs involved are enormous. *(Costs: Hearing aids (tax deductible) between <\$1,000 to >\$5,000 each, not including a Cochlear Implant; assistive devices can range from \$50.00 to thousands of dollars depending on what is purchased; batteries to keep them operating; repairs; real-time service such as CART (Communication Access Realtime Translation) 65.00 and up to whatever depending on the contract, exact service requirement.) Many of these costs are borne by the consumer for the sole purpose of access.)* The form should include something that ensures this mechanism is taken into consideration. This would help make the decision process more realistic for physicians/professionals that are called upon to provide clear unbiased judgements.
- S4. Tax officials should have disability awareness and sensitivity training every 18 months – front line workers, policy and decision-makers and;

have disability awareness training provided by PWD and by the person or persons who represent the disability being presented.

- S5. Suggest a short term and long term disability criteria. Most of us have permanent (hearing) disabilities and they do not return to normal. The aging process also degrades hearing. To suggest otherwise is obscene. When hearing is diagnosed as a permanent loss – it is exactly that a **PERMANENT LOSS.**

In the case of a hearing disability, everyone is different – for example: I have severe to profound hearing loss, hearing discrimination of approximately 30% in both ears, sound discrimination that is profound and Ménière's Disease. Because I wear hearing aids, I still have a difficult time hearing people properly and many times effectively. Others have CI and while the cochlear implant provided sound. It is a different sound that cannot discriminate sound as the human hearing organs can thus the profound difficulty for individuals.

- S6. Taxpayers need to know and understand the eligibility criterion for DTC. In addition, taxpayers should have access to copies of material in alternative communication format if necessary pertaining to the DTC eligibility, design, process and evaluation stages.
- S7. The T2201 E (00) form needs to be more open for comments rather than the basis and restrictive YES, NO response. This is inappropriate, PWD are not machines that function with one of two ideas. (**Reference: Federal Task Force on Disability Issued 1996**)
- S8. Basic activities of daily living need to ensure that each of the 6 points are separated and not consider cumulatively and that evaluators follow a strict guidelines towards determining eligibility.
- S9. If a re-evaluation (short-term disabilities) is necessary, the taxpayer should be able to claim the expense as a medical expense. See the 2nd page of the form, upper left hand side. CCRA clearly states the cost is borne by us and not an income tax expense.

Thank you

BACKGROUND

The Federal task Force on Disability Issues “Equal Citizenship for Canadians with Disabilities – The Will to act” recommendation 42 states the following

“The Government of Canada should base all future revisions to income tax legislation as it affects persons with disabilities to reflect **principles** that deal with the additional cost of disability. These principles are:

- For persons with disabilities normal activities bring extraordinary costs which are involuntary.
- Some of these costs are general and intangible and others can be by supported by receipts for expenditures.
- Tax recognition of these costs is not a subsidy based on sympathy or charity but fair tax treatment.
- Tax recognition of disability-related costs should encourage, not discourage, the employment of persons with disabilities.
- The costs associated with disability are more onerous when borne by individuals with limited income.
- The costs associated with disability are not limited to those with taxable income.”¹

A NEW DISABILITY EXPENSE TAX CREDIT:²

The independent experts who studied the tax system as well as the participants in our consultations called for two things:

- refundability of a tax credit that recognizes the cost of disability, and

¹ Federal Task Force on Disability Issues, Chaired by Andy Scott, MP. Fredericton – York – Sunbury. Task Force report “Equal Citizenship for Canadian with Disabilities -- The will to act” – October 1996. Page 87.

² Federal Task Force on Disability Issues, Chaired by Andy Scott, MP. Fredericton – York – Sunbury. Task Force report “Equal Citizenship for Canadian with Disabilities -- The will to act” – October 1996. Page 97.

- a tax credit that more accurately reflects the actual costs to an individual.

The Government of Canada should create a more flexible tax measure to help individuals meet the additional costs of disability. Moving in this direction could be a “statement of deed” by the federal government that all residents have a right to be a full member of society and that the personal supports, aids and devices that an individual needs to realize this objective would be at least partly paid for by Canada.

INVOLVE THE COMMUNITY

Recommendation 52³

The Government of Canada should establish an advisory panel made up of persons with disabilities, representatives of the federal government, provincial governments, the insurance industry, employers and organized labour, to provide within one year, recommendations for, among other things, tax measures that deal with:

- a) a review of the criteria and definitions used for determining eligibility for the Disability Expense Tax Credit;
- b) consistent tax treatment of disability-related income sources;
- c) the tax treatment of trusts;
- d) determining whether the three claims for dependents with disabilities can be replaced by one claim;
- e) effective measures to promote barrier removal by businesses;
- f) allowing non-incorporated businesses the same tax treatment of supplementary health and dental benefits as incorporated businesses;
- g) other issues relevant to the tax treatment of disability.

³ Federal Task Force on Disability Issues, Chaired by Andy Scott, MP. Fredericton – York – Sunbury. Task Force report “Equal Citizenship for Canadian with Disabilities -- The will to act” – October 1996. Page 100.

“THE DISABILITY TAX CREDIT”

The Disability Tax Credit (DTC) is a non-refundable credit that applies to people who, over a prolonged period of time, are “markedly restricted” in their ability to perform an essential function of daily living, even with the use of aids. The tax system is working from an important clinical tool, the Activities of Daily Living, which is not wholly appropriate to define eligibility for the DTC. The list of essential functions includes seeing and walking, for example, but does not include breathing.

The DTC reduces an individual’s federal taxes owing by about \$720. Combined with the value of the provincial taxes that the individual also saves, the credit rises to about \$1,120. The DTC may be transferred to a supporting relative, but it is of value only to those who pay taxes.

Of Canadians identified in the 1991 Health and Activity Limitations Survey as having severe disabilities, only 23 percent claimed the DTC in that year. Of people with moderate disabilities, 16 percent claimed the credit. About half of the people in these groups surveyed said that they did not claim the credit because they did not know about it until they were asked. The remainder had been refused the credit or thought they would not qualify for it.

Recommendation 44.

In its 1997 Budget, the Government of Canada should:

- a) Increase the value of the Disability Tax Credit to offset its erosion due to inflation and fully index the credit to inflation. [done]
- b) Allow the Disability Tax Credit to be transferred to any supporting person. [done]
- c) expand the list of para-medical professionals, such as audiologists, who are able to certify an individual as eligible for the Disability Tax Credit. [done]

“THE MEDICAL EXPENSES TAX CREDIT”

The Medical Expenses Tax Credit (the METC) gives individuals a credit against taxes owed for some medical expenses. The expenses must exceed 3

percent of net income or \$1,614, whichever is lower. The list of eligible expenses includes such things as:

- costs for hospital and nursing home care,
- personal transportation for medical care, for trips over 40 kilometres,
- medical devices such as prostheses and wheelchairs,
- home renovations,
- attendant care, and
- prescribed drugs.

Expenses that give individuals some personal benefit are not eligible for the credit. This includes, for example, the cost of installing air conditioning in the home for individuals with multiple sclerosis, a condition that is made worse by heat. Similarly, the costs of necessary nutritional supplements for persons living with HIV or AIDS are considered personal expenses.

The combined federal and provincial Medical Expense Tax Credit covers about 26 percent of the expenses that an individual claims. Since the credit is based on actual expenses, it is of greater value to those with higher incomes. It provides a proportionately larger benefit to people who have extraordinary one-time expenses than to those who have ongoing costs for disability-related supports and services.

Only about 10 percent of people who claim the Disability Tax Credit also make a claim for medical expenses.

Again, we make a recommendation for an overhaul of the treatment of itemized expenses to replace the current METC. But until these are put in place, some changes could be made in line with the principles we have set out above.

Recommendation 45

In the 1997 budget the Government of Canada should:

- a) Add to the list of eligible items for the Medical Expense Tax Credit all necessary medical expenses, including items such as nutritional supplements for persons living with HIV. Where the cost has a component of personal consumption, a predefined amount should be allowed for the credit based on typical costs. To illustrate, \$1,000 might

be allowed for medically necessary air conditioning or \$5,000 to reflect the additional cost of installing a lift in a van and to take account of the fact that a person who requires a lifting device cannot purchase a smaller, less expensive vehicle.

- b) Make eligible for the Medical Expense Tax Credit the reasonable cost of medically necessary attendant care provided by family members.
- c) Remove the \$5,000 limit on claims for attendant care expenses.
- d) Remove the \$1,614 limit on the net income exemption for the METC and use the funds for other recommendations made in this report.

“APPLYING THE INCOME TAX ACT”

People with disabilities have experienced problems with the way the Income Tax Act is applied. Many of these problems can be addressed through simple actions such as revisions to interpretation bulletins used by Revenue Canada. For example, people with disabilities told us that even though the law has not been changed, they believe the interpretation used by Revenue Canada on the T2201 form, used for claims for the Disability Tax Credit, has become more restrictive recently. Many people who had submitted claims for the credit now appear to be ineligible. The law must be respected, of course, but the interpretation of the law must be fair and must be seen to be fair.

Revenue Canada has retroactively assessed people who claimed the Disability Tax Credit, even though they were previously allowed the credit and had provided a certificate from a medical professional to substantiate their claim of a prolonged and marked inability to perform certain basic functions.

In line with the principles that we outlined in Recommendation 42, we also feel that the disability-related expenses covered by the Special Opportunity Grants for students with disabilities who receive Canada Student Loans should not be treated as taxable income.

Recommendation

47. For the 1996 taxation year, the Government of Canada should review the T2201 form, in consultation with the disability community, to make it consistent with the statutory definition.

48. The Government of Canada should immediately limit “retroactive” assessment of the Disability Tax Credit to cases where no bona fide Disability Tax Credit valid on its face was submitted. The government should not reassess those who were certified eligible by a physician or optometrist.

49. The Government of Canada should allow for a broad interpretation of expenses related to vocational rehabilitation. If possible, this should be accomplished by Revenue Canada through a bulletin rather than by legislation.

A NEW DISABILITY EXPENSE TAX CREDIT:

The independent experts who studied the tax system as well as the participants in our consultations called for two things:

- refundability of a tax credit that recognizes the cost of disability, and
- a tax credit that more accurately reflects the actual costs to an individual.

The Government of Canada should create a more flexible tax measure to help individuals meet the additional costs of disability. Moving in this direction could be a “statement of deed” by the federal government that all residents have a right to be a full member of society and that the personal supports, aids and devices that an individual needs to realize this objective would be at least partly paid for by Canada. Such a tax measure would constitute a move in the direction of a pan-Canadian program for disability-related supports and services. It would also be consistent with the broadly based citizenship objectives that ought to underline the federal role in disability.

The proposed Disability Expense Tax Credit can combine the best features of the Disability Tax Credit (DTC) and the Medical Expense Tax Credit (METC). Like the DTC, the new credit should be available to persons whose disabilities prevent them from performing basic functions of daily life, even

with the assistance of a technical device or aid. Unlike the DTC, the credit should be refundable, so that it benefits people who earn very low incomes. For people who are receiving social assistance, the provincial and territorial governments should not consider amounts received under the Disability Expense Tax Credit (DETC) as income and use them to lower benefits paid to these individuals.

This basic portion of the DETC may be set at a lower level than the current Disability Tax Credit, because the full DETC will also take into account receipted disability-related expenses by means of a tax credit more closely related to actual disability-related expenditures.

Recommendation 52

In the 1997 Budget, the Government of Canada should announce its intention to introduce, for the 1998 tax year, a new Disability Expense Tax Credit to replace the Disability Tax Credit and the Medical Expense Tax Credit for persons with disabilities. The eligibility criteria for the Disability Expense Tax Credit should reflect the current review of the Disability Tax Credit.

The exact design of the Disability Expense Tax Credit should depend on consultation with the disability community but it should have the following features:

- a) The federal value of the credit should be refundable (with the provincial share where arrangements have been made with a province).
- b) The credit should have two components; a base amount available to all those who meet the overall eligibility criteria; and a second amount which would be based on disability-related “out-of-pocket” expenditures.
- c) The tax treatment of eligible “out-of-pocket” expenses should be modified as indicated above. Eligible expenses should include medically- necessary expenses and increases in employment-related expenses due to disability.

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- d) The base amount of the credit reflects an “across-the-board” estimate of undocumented costs. This base level should be set recognizing the change in the treatment of the recognized, “receipted” expenses.
 - e) The base amount of the credit should be refundable in advance on a quarterly basis much like the practice with the GST credit.
 - f) The tax rate used to calculate the credit, normally 17 percent, should be increased to 29 percent for low-income beneficiaries.
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INVOLVE THE COMMUNITY:

We know that we have not resolved all the tax questions related to disability in this report. Some issues require further study prior instituting reforms. At the same time, we feel that it is important to recognize that a new approach is needed. The disability community should be involved in plans to change and improve the tax system so that problems can be avoided and so that people feel well served by a government that treats them fairly.

Because people are not federal or provincial beings, nor are they isolated from business, labour and other groups that help determine how our society functions, true consultation should involve all of these groups as well. There are a number of issues on which reforms have been recommended, and these form the basis of the Task Force’s final recommendation.

Recommendation 52

The Government of Canada should establish an advisory panel made up of persons with disabilities, representatives of the federal government, provincial governments, the insurance industry, employers and organized labour, to provide within one year, recommendations for, among other things, tax measures that deal with:

- h) a review of the criteria and definitions used for determining eligibility for the Disability Expense Tax Credit;
- i) consistent tax treatment of disability-related income sources;
- j) the tax treatment of trusts;

- k) determining whether the three claims for dependents with disabilities can be replaced by one claim;
- l) effective measures to promote barrier removal by businesses;
- m) allowing non-incorporated businesses the same tax treatment of supplementary health and dental benefits as incorporated businesses;
- n) other issues relevant to the tax treatment of disability.

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