

August 29, 2003

**The Technical Advisory Committee
on Tax Measures for Persons with Disabilities**
140 O'Connor Street
Ottawa, Ontario
K1A 005

Attention: Mr. Charles Smyth

Dear Sir:

DISABILITY TAX CREDITS

I am writing on behalf of Epilepsy Canada to offer my comments with regard to certain policy and administrative issues related to the disability tax credit as it is currently applied within the Canadian tax system. I am also writing from the perspective [REDACTED], and from the perspective of a tax accountant who deals with various compliance issues faced by our clients in the preparation and filing of their personal returns annually. I would think that I have a unique combined perspective on the situation.

I am a CGA in public practice in Vancouver, British Columbia, and our firm prepares and files, on behalf of our clients, more than 1,300 personal returns annually, and has done so for many years. We have a cross-section of clients, and as such a number of the returns we file each year have claims for the disability tax credit.

I would like to first take this opportunity to compliment the Government on the progress made over the last few years to allow greater access to information for various government programs, including disability tax credits, offered through the Government's web-based services, especially areas on the websites allowing access to publications and forms, thus improving communication and assisting our job in getting tax returns filed on time and accurately.

With regard to the tax credit system, I personally have been troubled for a number of years by the somewhat restrictive rules about who can claim the disability amount. I believe there needs to be an expansion in the scope of the disability tax credit system. I believe that the time frame for qualification of at least twelve months is reasonable. However, the definition that the taxpayer must have a "severe mental or physical impairment which causes you to be markedly restricted in any of the basic activities of daily living" I am concerned about. Why does the tax credit only apply if the person is "markedly restricted"? As with many things in life, restrictions come in various degrees. It would seem unfair that either you are markedly restricted in these activities, or you get no help at all.

I know of a case, for example, where the patient, who in my mind, had a number of fairly serious problems asked the neurologist in care to sign the disability tax credit certificate on the patient's behalf and the neurologist refused to do so, commenting that this particular patient's case was not nearly as severe as others the neurologist was aware of. The family, who, from a layman's perspective, thought the patient had a serious problem, went to the patient's family doctor, who, when comparing this case with other more 'normal' patients, agreed that there was a fairly serious problem, and was prepared to sign the disability tax form. A matter of perspective, perhaps. From the family's perspective, the patient's condition had a severe impact on their daily lives, and if our tax system has at least part of its mandate to be a system that provides fairness and equitable results, then I think the current disability tax credit system falls short in this regard, with an 'all or nothing' approach to obtaining assistance through the current disability tax credit.

Patients with epilepsy, who are fortunate enough to have their seizures under control with appropriate medications, can and do function quite normally in our society, and contribute to Canada. However, in cases of epilepsy that are not well-controlled through medications, the patient copes with an impairment that is not necessarily continuous and they are not always "markedly restricted" in their daily activities. Seizures can occur without warning, and depending individual cases, can be quite severe, and can occur with frequency.

The actual form that the doctors are asked to complete refers again and again to conditions that occur "all or almost all the time", and only in these cases can the doctor sign the form to claim the disability amount. This leaves a wide range of people who struggle daily with various levels of disability, including epilepsy, that may not necessarily qualify under the current system. The impact on their lives is still severe, and yet no tax credit is available. On behalf of Epilepsy Canada, I would like to see an expansion of the definition of "markedly restricted", where perhaps the patient would qualify for at least a partial disability to acknowledge that it is not always an all or nothing situation.

On behalf of the Epilepsy Canada board, I remain yours truly,

Brian M. Galloway, CGA, CFP
Treasurer, Epilepsy Canada

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