



Ontario  
Brain Injury  
Association

August 5, 2003

Ms. Sherri Torjman and Mr. Robert Brown  
Co-chairs: Technical Advisory Committee on Tax Measures for Persons with Disabilities  
C/O Charles Smyth  
140 O'Connor Street  
Ottawa, ON KIA 0G5

Dear Ms. Torjman and Mr. Robert Brown:

Thank you for updating me on the status of the disability tax credit debate and congratulations on your appointment to this Advisory Committee. I know that you recognize the challenges inherent in establishing just guidelines for the administration of the disability tax credit.

As an organization that supports individuals and families living with the effects of acquired brain injury, we have received a number of calls from people who are troubled by the current guidelines. Those most concerned are the ones who had previously qualified and then suddenly became ineligible though no change in their condition occurred. On behalf of people living with the effects of ABI, I would like to draw the committee's attention to their main concerns with the current guidelines and their administration.

The first and most important is the interpretation of one of the activities of daily living, specifically the ability to "perceive, think and remember". I would suggest to you that without qualifying adverbs, these three terms virtually render almost every living being ineligible for the disability tax credit. Even most comatose patients perceive pinpricks to the heel as evidenced by reflex physical responses to the stimuli. Recent research done by Dr. David Wright of Dalhousie University on slow to recover patients with ABI indicates that even these people are able to discriminate among items based on responses measured by an electroencephalogram. So they can, in a primitive way, think and remember. My point is that the ability to perceive, think and remember is not a suitable threshold for eligibility unless we qualify those terms. For example, you might ask if a person can "perceive objectively". Many people with brain injuries or mental disabilities can perceive, they just don't perceive or interpret their world in the same way that the "normal population" does. Similarly, you might ask if an applicant can think realistically, efficiently or productively. Persons with brain injuries or mental disabilities can usually think, but often their thoughts are so detached from reality that they can lead to danger for themselves or others. Finally, you might ask if an applicant can access both short term and long-term memories accurately. I meet people with brain injuries frequently who can remember what happened 30 years ago, but cannot remember what happened 15 minutes ago. There is also the question of accuracy of memory. Sometimes those with cognitive disabilities have memories with no basis in their experience.

It is essential that the issues of perceiving, thinking and remembering have some qualifiers. The question for medical practitioners might read, "Can your patient perceive objectively, think rationally, and remember accurately within ranges that allow him/or her to function independently in the roles of daily living".

Finally, I would also draw your attention to the episodic nature of some of these cognitive dysfunctions based on age, stress levels and the proper administration of medications.

The other issue that I would like to put to the committee is the qualifications of those within the Finance Department who determine the eligibility based on the answers to the questionnaire submitted by a qualified medical practitioner. I would like to think that the folly evident in having a "clerk" who has never met the patient contradict a medical practitioner who has followed the patient in some cases for years, will be pointed out.

Once again, thank you for this opportunity.

Yours truly,

Mr. John Kumpf  
Executive Director

JK/tw