



HOUSE OF COMMONS  
CANADA

# **GETTING IT RIGHT FOR CANADIANS: THE DISABILITY TAX CREDIT**

**Standing Committee on Human Resources  
Development and the Status of  
Persons with Disabilities**

**Judi Longfield, M.P.  
Chair**

**Carolyn Bennett, M.P.  
Chair  
Sub-Committee on the Status of Persons with Disabilities**

**March 2002**

---

The Speaker of the House hereby grants permission to reproduce this document, in whole or in part for use in schools and for other purposes such as private study, research, criticism, review or newspaper summary. Any commercial or other use or reproduction of this publication requires the express prior written authorization of the Speaker of the House of Commons.

If this document contains excerpts or the full text of briefs presented to the Committee, permission to reproduce these briefs, in whole or in part, must be obtained from their authors.

Also available on the Parliamentary Internet Parlementaire: <http://www.parl.gc.ca>

Available from Public Works and Government Services Canada — Publishing, Ottawa, Canada K1A 0S9

**GETTING IT RIGHT FOR CANADIANS:  
THE DISABILITY TAX CREDIT**

**Standing Committee on Human Resources  
Development and the Status of  
Persons with Disabilities**

**Judi Longfield, M.P.  
Chair**

**Carolyn Bennett, M.P.  
Chair  
Sub-Committee on the Status of Persons with Disabilities**

**March 2002**



# **STANDING COMMITTEE ON HUMAN RESOURCES DEVELOPMENT AND THE STATUS OF PERSONS WITH DISABILITIES**

## **CHAIR**

Judi Longfield

## **VICE-CHAIRS**

Diane St-Jacques

Carol Skelton

## **MEMBERS**

Eugène Bellemare

Serge Marcil

Paul Crête

Joe McGuire

Libby Davies

Anita Neville

Raymonde Folco

Werner Schmidt

Monique Guay

Larry Spencer

Tony Ianno

Greg Thompson

Dale Johnston

Alan Tonks

Gurbax Malhi

## **CLERK OF THE COMMITTEE**

Danielle Belisle

## **FROM THE RESEARCH BRANCH OF THE LIBRARY OF PARLIAMENT**

Julie MacKenzie

Kevin Kerr

William Young



# **SUB-COMMITTEE ON THE STATUS OF PERSONS WITH DISABILITIES**

## **CHAIR**

Carolyn Bennett

## **MEMBERS**

Madeleine Dalphond-Guiral

Anita Neville

Raymonde Folco

Larry Spencer

Nancy Karetak-Lindell

Greg Thompson

Wendy Lill

Tony Tirabassi

## **CLERK OF THE SUB-COMMITTEE**

Mike MacPherson

## **FROM THE RESEARCH BRANCH OF THE LIBRARY OF PARLIAMENT**

Kevin Kerr  
William Young





# **THE STANDING COMMITTEE ON HUMAN RESOURCES DEVELOPMENT AND THE STATUS OF PERSONS WITH DISABILITIES**

has the honour to present its

## **SEVENTH REPORT**

In accordance with its mandate under Standing Order 108(3)(c), your Committee established a sub-committee and assigned it the responsibility of studying the matters relating to the proposing, promoting, monitoring and assessing of initiatives aimed at the integration and equality of disabled persons in all sectors of Canadian society.

The Sub-Committee studied the Disability Tax Credit and submitted its report to the Committee.

Your Committee adopted the following report, which reads as follows.



# TABLE OF CONTENTS

---

INTRODUCTION .....	1
I. THE IMMEDIATE ISSUE: THE CCRA'S DECISION TO REVIEW LONG-STANDING DTC APPROVALS.....	2
II. THE POLICY AND LEGISLATIVE BASIS UNDERLYING THE DTC .....	5
A Prolonged Impairment.....	6
Basic Activities of Daily Living .....	7
Markedly Restricted.....	8
Qualified Persons .....	10
III. CONSULTATION AND A NEW FORM T2201 .....	11
IV. COSTS TO INDIVIDUALS .....	18
V. INFORMATION AND COMMUNICATIONS.....	20
VI. DECIDING ELIGIBILITY .....	22
VII. RE-EVALUATION AND REFORM.....	25
LIST OF RECOMMENDATIONS .....	29
APPENDIX A: LIST OF WITNESSES .....	35
APPENDIX B: LIST OF BRIEFS.....	37
REQUEST FOR GOVERNMENT RESPONSE .....	39
SUPPLEMENTARY OPINION OF THE BLOC QUÉBÉCOIS.....	41
MINUTES OF PROCEEDINGS .....	43



# GETTING IT RIGHT FOR CANADIANS: THE DISABILITY TAX CREDIT

---

## INTRODUCTION

In response to growing concerns raised by persons with disabilities and organizations representing them, the Chair of the Sub-Committee on the Status of Persons with Disabilities announced on 6 November 2001 that the Sub-Committee would conduct an examination of the Canada Customs and Revenue Agency's (CCRA) decision to ask more than 100,000 individuals to recertify their eligibility for the Disability Tax Credit (DTC). The Sub-Committee on the Status of Persons with Disabilities commenced its hearings about the administration of the Disability Tax Credit on 20 November 2001 and since then has held a number of round-table meetings with national disability organizations, individuals, medical professionals, and officials from the CCRA and the Department of Finance.

The federal government delivers a variety of measures designed to support persons with disabilities. Some of this support is available through the tax system. The Committee has a particular interest in the administration of the DTC, a non-refundable tax credit intended to assist persons with a severe disability in meeting some of the additional costs related to their disability. To apply for this credit, individuals must submit Form T2201, the Disability Tax Credit Certificate. DTC eligibility decisions are largely based on the "yes-no" format in Form T2201.

In our view, the guidelines pertaining to the application's questions are very restrictive and serve to deny support for too many applicants with a severe disability. This criticism is not new. When the Department of Finance evaluated the DTC in 1991, it found many of these problems and pointed out that "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."<sup>1</sup> Furthermore, many of the DTC-related problems that we identified during our hearings were raised in 1993 by the Standing Committee on Human Rights and the Status of Persons with Disabilities, in 1996 by the Federal Task Force on Disability Issues and in a survey conducted by Brighton Research in 1999 on behalf of the CCRA.

This unacceptable lack of action seems to be endemic among those who administer the tax system. During its hearings, the Sub-Committee grew alarmed enough about the negative impact of the CCRA's reassessment on Canadians with disabilities, that in mid-December 2001, it wrote a letter to the Minister of National Revenue and held a press conference. The Sub-Committee unanimously asked the Minister to act urgently,

---

<sup>1</sup> Department of Finance, *Disability Tax Credit: Evaluation of Recent Experience*, Ottawa: 1991, p. ii.

to send an apology to those who received the CCRA's reassessment notice and to ensure that their tax status did not change for the 2001 tax year. Over two months later, Canadians are beginning to file their 2001 tax returns and the Sub-Committee on the Status of Persons with Disabilities is still waiting for the Minister to respond to its letter.

Despite this inappropriate treatment of Parliament, the Committee has prepared a report on the DTC and makes further recommendations on how the government should proceed to improve the administration of this important tax measure. Our report begins with a discussion of the CCRA's decision to review the eligibility status of more than 100,000 long-term DTC recipients. This is followed by several sections including, among others, DTC policy and legislation, CCRA consultations and Form T2201.

The Committee feels that it is appropriate to remind both Canadians and the CCRA itself of the Agency's mandate. The CCRA states in its Web site that:

...fairness and the promotion of our clients' rights have long been key goals. We are committed to provide fairness to our clients and to protect their rights through our fairness policies.

It is time that these sentiments be reflected in action with regard to the Disability Tax Credit.

## **I. THE IMMEDIATE ISSUE: THE CCRA'S DECISION TO REVIEW LONG-STANDING DTC APPROVALS**

Today, the Canada Customs and Revenue Agency reviews all applications for the Disability Tax Credit (DTC) at the time a taxpayer's application is received. This has not always been the case. Before the CCRA assumed responsibility for the administration of the DTC in 1996, all DTC applications were accepted upon assessment of an individual's tax return. Only a small percentage of applications were subjected to a post-assessment review. After 1996, the CCRA established a new procedure in which all applications are reviewed at the outset and eligibility is determined at that time. The Committee was told that roughly 15% to 20% of all new applications (estimated at 170,000 per year) are rejected. Of those accepted, approximately one-third (i.e. 45,000 to 49,000) are approved for a temporary period of time, while the remainder (i.e. 90,000 to 99,000) receive a lifetime approval. Unfortunately, the CCRA did not provide the Committee with any written confirmation of these numbers and the Committee is unsure of the accuracy of those provided in oral testimony by the CCRA's officials.

In 2000, the CCRA conducted a pilot project to review older files, those pertaining to claims established between 1985 and 1996. Based on the results of this pilot project, the CCRA determined that some individuals who originally applied for the DTC between 1985 and 1996 should not have been approved or that their approval should only have been made for a short period of time. In other instances, the CCRA concluded that there

was insufficient information in individuals' files to support continued entitlement. Again, this problem was identified over a decade ago in an evaluation of the Disability Tax Credit that was prepared by the Department of Finance.<sup>2</sup>

As a result of these recent findings, the CCRA decided to review about 200,000 DTC claims that originated between 1985 and 1996. The first phase of this review involved 135,000 active DTC self-claims (individuals that directly claim the DTC for themselves). Of these, 106,000 individuals were sent a letter from the CCRA dated 19 October 2001. This letter expressed doubt about the recipients' entitlement to the DTC and requested that each of them submit a new application (called Form T2201, Disability Tax Credit Certificate) to determine eligibility for 2001 and future tax years.

The second phase of the CCRA's review will pertain to 65,000 claims transferred to individuals on behalf of a spouse or dependent who is eligible to receive, but unable to use, all or part of the DTC. The CCRA has not yet requested DTC recipients in this group to seek recertification.

The Committee finds it very easy to understand why many of those who received the CCRA's letter are upset, given the fact that they had already applied for the DTC and had been approved. Furthermore, until receiving the CCRA's letter, most recipients were under the reasonable impression that their DTC eligibility was indefinite or at least long term. In addition, the Committee was told that in many cases, the disabilities for which initial approval was given have worsened — not improved — and hence there is little, if any, rationale for requesting these individuals to submit a new Form T2201. We also heard of cases where taxpayers who received the letter of October 19 had been told just months before that their documentation remained in order and their claim was still valid. In still other cases of individuals who received the letter, the Canadian National Institute for the Blind requested CCRA to check their files. These were found, in fact, to be complete. In the words of our witnesses:

We don't really object to CCRA requesting information from persons claiming for the first time the disability tax credit. It would also be reasonable to request information in cases of medical breakthroughs rendering vision restoration likely. However, this has not been the case for the last 20 to 30 years. I spoke earlier about the fact that very few people have recovered their sight, 21 over the last five years. (Angelo Nikias, National Director, Government Relations, Canadian National Institute for the Blind)<sup>3</sup>

---

<sup>2</sup> Department of Finance, *Disability Tax Credit: Evaluation of Recent Experience*, Ottawa: 1991, p. 31. The evaluation found that an initial assessment of a selection of the claims received prior to 1991 found that 38% were ineligible. The evaluation noted that the selection of claims was "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." In light of this, a compliance audit based on a statistically valid sample was conducted and the number of ineligible cases dropped to 15%. The decisions about the eligibility of the claims were made by Health and Welfare medical advisors — not Revenue Canada.

<sup>3</sup> Sub-Committee on the Status of Persons with Disabilities (SSPD), *Evidence*, Meeting No. 9 (16:15), 20 November 2001.

When we first received the letter ... we were quite offended, particularly with the sentence ... "After reviewing your file we've determined that we do not have enough information to continue to allow your claim for the 2001 and future tax years." Why? Has my son's file been destroyed? When the allowance was approved in 1987, it was approved on the basis of the permanence of our son's disability and the fact that its nature resulted in severe and prolonged restriction of his daily living activities, for all of which he requires some care and attention. What additional information can we possibly supply? Nothing has changed ... Our son hasn't suddenly learned to speak or to take care of his personal needs for toileting or nutrition, nor has he overcome the need for attendance by other people for every facet of his life. To suddenly imply that he's not supplied the authorities with sufficient information to remain eligible is arbitrary, insensitive, and totally rude. (Audrey Cole, Canadian Association for Community Living)<sup>4</sup>

I wish to indicate that the CCRA appears to be applying a rather bizarre approach with the DTC sweep, one that is insulting, hurtful, and disgraceful when approaching people who have a permanent disability or disabilities and meet the criteria of eligibility. We are taxpaying citizens of the land, and being treated like this is disrespectful, undignified, and unnecessary. (Colin Cantlie, President, Canadian Hard of Hearing Association)<sup>5</sup>

The Committee is very sympathetic to those who have received the CCRA's request for recertification. Not only is this request inappropriate for those whose disabilities have remained unchanged or worsened, but these individuals are also being forced to undergo recertification via a process that the Committee believes is grossly inadequate for two reasons. First, sections 118.3 and 118.4 of the *Income Tax Act* do not adequately capture the policy intent underlying the DTC. And second, Form T2201 is flawed in terms of its content, guidelines and structure.

**1. The Committee recommends that:**

- (a) The CCRA send a letter to every individual who received the letter dated 19 October 2001 requesting DTC recertification. This correspondence should apologize for the tone of the letter and provide a complete explanation as to why the CCRA requested recertification.**
- (b) All individuals who obtain recertification as a result of the October 19 letter be compensated upon the production of a receipt for any costs incurred in obtaining the services of a qualified person to complete Form T2201 or for providing the CCRA with any supplementary information.**

---

<sup>4</sup> Ibid., (16:20).

<sup>5</sup> SSPD, *Evidence*, Meeting No. 11 (15:40), 4 December 2001.



- (c) The CCRA inform all recipients of the October 19 letter that anyone who has been reassessed and refused the DTC can reapply once Form T2201 is redesigned (See Recommendation 5). In the meantime, the CCRA should also advise these individuals of their right to appeal the decision.
2. The Committee recommends that no new requests for recertification be sent to individuals who have claimed the DTC in whole or in part during the period 1986 to 1996 until Form T2201 is redesigned (See Recommendation 5).

## II. THE POLICY AND LEGISLATIVE BASIS UNDERLYING THE DTC

The federal personal income tax system currently recognizes part of the cost of disabilities in several ways: The Disability Tax Credit, the Medical Expenses Tax Credit, personal tax credits for infirm dependants and caregivers as well as provisions for private savings in the form of trusts and tax-deferred savings plans. Other provisions recognize the costs of supporting and caring for dependent children. The disability-related measures take the form of non-refundable credits against basic federal income tax payable. The aim of the disability tax measures is to achieve horizontal equity (treating likes alike for tax purposes) in order to level the playing field.

The Disability Tax Credit originated during the Second World War as a \$480 deduction from taxable income for persons who were totally blind and did not claim an amount for attendant care under the medical expense deduction. This provision was intended to recognize undocumented, non-discretionary costs that blind persons usually incur and to help compensate unpaid family members involved in their care.<sup>6</sup>

Today, the DTC has evolved to become a non-refundable, fixed credit against basic federal personal income tax that is available to a much larger population of persons with a full range of severe disabilities. According to the *Income Tax Act*, eligibility requires an individual's mental or physical impairment to be "prolonged" (lasting for a continuous period of at least 12 months) and to "markedly restrict" an individual from performing "all or substantially all of the time, even with therapy and the use of appropriate devices and medication," one or more "basic activities of daily living." For this purpose, therapy does not include that which is essential to sustain a vital function of an individual and is required at least three times a week for a total duration of at least 14 hours per week. Basic activities of daily living include perceiving, thinking, remembering, feeding, dressing, speaking, hearing, eliminating (i.e. bowel or bladder functions) and walking.

---

<sup>6</sup> David G. Duff, *Disability and the Federal Income Tax*, Williams Research Public Policy Working Paper #WRO2, Toronto: February 2000, p. 33.

To apply for the DTC, individuals must submit Form T2201. A “qualified person” (i.e. medical doctor, optometrist, audiologist, occupational therapist, psychologist or speech therapist) must complete this form. Only a medical doctor can certify all impairments, while other qualified persons are limited to their area of specialization in their capacity to certify. For example, an audiologist can only certify hearing impairments, while an optometrist is limited to certifying sight impairments.

Individuals who are deemed eligible to receive the DTC may claim a non-refundable tax credit worth \$960 (i.e. 16% of \$6,000). The October 2000 Budget Statement also indexed the DTC to inflation. An individual who supports the person who is entitled to the DTC may, under certain circumstances, claim unused portions of the credit.<sup>7</sup>

Without providing exact figures, the CCRA and the Department of Finance told the Committee that the current DTC population consists of approximately 400,000 self-claims, 100,000 spousal transfer claims and 100,000 dependant transfer claims. The tax expenditure associated with the DTC is close to \$500 million.

Many of the DTC eligibility problems identified during our hearings stem from what the Committee believes are inadequate, and often subjective, criteria designed to satisfy the legal requirement that an impairment “markedly restricts” an individual’s ability to perform one or more basic activities of daily living. Other concerns relate to, for example, the definition of “prolonged” and the absence of “breathing” from the list of basic activities of daily living.

### ***A Prolonged Impairment***

Members of the Committee accept the requirement that an individual’s impairment must be “prolonged” to be eligible for the DTC. However, we are reluctant to support the requirement as stated in the *Income Tax Act* that an individual’s impairment must last for a continuous period of at least 12 months. In our view, this definition is quite restrictive and excludes many individuals whose impairments are serious and long lasting. Multiple sclerosis, for example, is a cyclical, unpredictable, progressive and degenerative disease. And because of its episodic nature, many individuals with this disease are unable to qualify for the DTC because attacks do not last for a continuous period of 12 months, even though the disabling effects of MS are recurrent and long lasting. Mental illness is another serious impairment that can be severe and long term, but episodic in nature. Expert witnesses told us that:

---

<sup>7</sup> To use all or a portion of the DTC, a supporting person must also claim the equivalent to spouse tax credit or the dependent tax credit in respect of the eligible individual.

Severe and prolonged mental illnesses are very debilitating. Impairment is present by definition for a long period of time, exceeding in this case, 12 months. Within this framework, symptoms may increase and decrease in severity but the impairment remains constant. Sometimes the onset of increased symptom severity is not predictable. The eligibility criteria need to be sensitive to these factors, and the CCRA information and forms need to make this clear to practitioners. (Dr. John C. Service, Executive Director, Canadian Psychological Association)<sup>8</sup>

Others have noted how the definition for “prolonged” disqualifies many with mental illness because of the episodic manifestation of the symptoms of most mental illnesses. (Dr. Blake Woodside, President, Canadian Psychiatric Association)<sup>9</sup>

The Committee believes that the definition of prolonged should be modified in order to extend DTC support to individuals who have a serious impairment that is recurrent and long-term, but not necessarily lasting for a continuous period of 12 months. Although the Committee is not prepared to make a specific recommendation on this matter, one possibility worth considering is consulting organizations such as those dealing with multiple sclerosis and mood disorders with a view to allowing DTC eligibility for an impairment that lasts for a discontinuous period of 12 months within a 24-month period.

### ***Basic Activities of Daily Living***

The basic activities of daily living captured by the words “perceiving, thinking and remembering” relate to basic activities that persons suffering from a severe mental impairment may not be able to perform. While our testimony indicates that these words are not applied collectively in practice, both the wording in the *Income Tax Act* and Form T2201 suggest otherwise. Hence, for greater clarity, the Committee believes that subparagraph 118.4(1)(c)(i) of the *Income Tax Act* and Form T2201 should read, “perceiving, thinking **or** remembering.” Similarly, subparagraph 118.4(1)(c)(ii) of the *Income Tax Act* and Form T2201 should read “feeding **or** dressing oneself.” Our witnesses told us that this would reflect case law since:

The form itself asked if the patient can “perceive, think and remember.” Now, case law has concluded that this criterion should read, “perceive, think or remember.” This also falls into line with current CCRA practice, and we think it is a positive development and should be clear on the form. (Dr. John C. Service, Executive Director, Canadian Psychological Association)<sup>10</sup>

The Committee believes that the statutory tests associated with speaking and hearing which require these basic activities of daily living to occur in “a quiet setting” with “another person familiar with the individual” are unreasonable and contrary to the actual experience of individuals who suffer from these impairments.

---

<sup>8</sup> SSPD, *Evidence*, Meeting No. 13 (15:45), 29 January 2002.

<sup>9</sup> *Ibid.*, (15:50).

<sup>10</sup> *Ibid.*, (15:50).

The criterion is very stringent. If you can understand a conversation — this is the government now — with hearing aids or implant on in a quiet room without lip-reading, you do not qualify for the exemption. The degree of hearing loss doesn't really matter to the bureaucrat. The way it was written, there is no room for any other interpretation. This assumes that all hard of hearing persons 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 environment and difficulties. It means, in fact, that few hard of hearing people actually will qualify. (Colin Cantlie, President, Canadian Hard of Hearing Association)<sup>11</sup>

The Committee maintains that subparagraphs 118.4(1)(c)(iii) and (iv) should be reworded to better reflect the everyday situations that individuals who suffer severe speaking and hearing impairments encounter. In addition, the Brighton Research report prepared for the CCRA pointed out that audiologists believe that specific measurements and scales used by audiologists could be used.<sup>12</sup>

Finally, the Committee believes that “breathing” should be added to the list of basic activities of daily living. In our opinion, its absence from the list is an obvious shortcoming and its inclusion would be in keeping with court decisions upholding the view that breathing is a basic activity of daily living.<sup>13</sup>

### ***Markedly Restricted***

According to paragraph 118.4(1)(b) of the *Income Tax Act*, an individual's ability to perform a basic activity of daily living is “markedly restricted” only where the individual is unable to perform one or more of these basic activities “all, or substantially all,” of the time. It is the Committee's opinion that this requirement, as applied in practice, is at the root of many of the problems pertaining to DTC eligibility.

According to the guidelines associated with the questions that qualified persons must answer on Form T2201, only two out of seven (i.e. “Can your patient see?” and “Can your patient walk?”) offer objective criteria. In regard to walking, the benchmark provided is a distance of 50 metres on level ground without taking an inordinate amount of time to do so. The Committee was told that the reference to 50 metres may have come from one of four walking-related questions pertaining to activities of daily living that were developed by the Organization for Economic Co-operation and Development. What is the significance of 50 metres? Most of us walk 50 metres within the first half hour of our day. And who walks around each day on level ground? What is an inordinate amount of time?

---

<sup>11</sup> SSPD, *Evidence*, Meeting No. 11 (15:45), 4 December 2001.

<sup>12</sup> Brighton Research, *Awareness, Knowledge and Attitudes to the Disability Tax Credit Among Health Care Professionals*, Ottawa: December 1999.

<sup>13</sup> See Duff (2000), p. 34-5. References are made to *Renken v. The Queen* [1996] 2 C.T.C. 2687 (T.C.C.) and *Fillion v. The Queen* [1998] Carswell Nat. 2907 (T.C.C.).

The remaining five questions have no stated benchmarks to assist qualified persons. However, the Committee was told that “all or substantially all” is a common expression used in the *Income Tax Act* and the jurisprudence associated with this expression interprets this as 90%. While this may be the case, it must be remembered that the application of this term in the context of the DTC is quite different from its usual business application. For the purposes of the DTC, the words “markedly restricted” are intended to apply to one’s inability to perform a basic activity of daily living and there is no reason to believe that the same benchmark should be applied to all impairments. For example, individuals who forget or cannot think 50% of the time may perhaps be more markedly restricted in their daily living than individuals who cannot hear 90% of the time. In commenting on this question, we heard some differing points of view.

... [O]ne cannot look at the word simply substantial. We have to look at substantially all. All or substantially all is an expression that is commonly used in the *Income Tax Act*. Of course, in other contexts, whether for example, a business used all or substantially all of its property for the purpose of carrying on a certain activity that maybe gives rise to a tax assistance. So I guess, based on jurisprudence in all those cases involving the *Income Tax Act*, all or substantially all has been interpreted as meaning 90%. Of course it doesn’t mean that if somebody is 88% that he would be disqualified. One has to look at the set of circumstances or what’s at hand really. (Robert Dubrule, Senior Tax Policy Officer, Business, Property and Resource Income and Corporate Re-organizations, Department of Finance)<sup>14</sup>

In recent years it has become virtually impossible for anyone with a serious mental illness to qualify for the tax credit without appealing the decision to the Tax Court of Canada. Even for people who previously qualified for the benefit, questions requiring a simple yes or no answer trivialize the complexities of all mental illnesses. The question, “Can your patient perceive, think, and remember?”, essentially excludes all individuals with a severe and prolonged mental illness, because they can still think, perceive, and remember, although their thought processes may be dysfunctional, erratic, bizarre, or delusional. Such discrimination is unlawful. (Lembi Buchanan, Individual Presentation)<sup>15</sup>

Again, to refer to the question about whether a person can perceive, think, and remember, we’d like to reinforce what you’ve heard about the untenable position that puts the professional in who has to answer yes or no to that question. They can only answer no if all or almost all of the time, even with therapy, medication, or a device, the patient cannot perceive, think, and remember. Many physicians have refused to complete this form because they find the definition of disability is far too narrow and restricted and puts them in an impossible professional position. It’s really hard to answer that question without contradicting their assessment of the patient. (Ed Pennington, Executive Director, Canadian Mental Health Association)<sup>16</sup>

---

<sup>14</sup> SSPD, *Evidence*, Meeting No. 14 (15:55), 5 February 2002.

<sup>15</sup> SSPD, *Evidence*, Meeting No. 10 (16:05), 27 November 2001.

<sup>16</sup> Ibid., (16:15).

Basic activities of daily living are defined as perceiving, thinking, or remembering. This also is a reasonable benchmark... However, the interpretation of this benchmark, which requires the impairment exist all or almost all of the time — the 90% rule — is reasonable for some Canadians who have, for example, a neurological injury, but not for many Canadians with mental illness or psychological disorders. For Canadians who fall within this latter group, it is more appropriate to consider other criteria to determine eligibility. (Dr. John C. Service, Executive Director, Canadian Psychological Association)<sup>17</sup>

The Committee was told that the test of “markedly restricted” is applied individually to each basic activity of daily living. What about individuals who are unable to perform more than one of the basic activities of daily living 30% or 50% of the time? Does the cumulative effect of this not result in a potential marked restriction? In the Committee’s opinion, individuals who unfortunately suffer from serious multiple impairments, none of which taken by itself would meet the current test of markedly restricted, must be accommodated in the law.

### ***Qualified Persons***

Aside from the aforementioned problems with DTC eligibility criteria and their associated guidelines, an individual with a severe impairment must have access to a qualified person in order to apply. The Committee believes that in some cases, individuals residing in remote areas of the country do not have ready access to the practitioners listed in paragraph 118.3(1)(a.2) of the *Income Tax Act*. When a doctor does arrive, the primary focus is treating individuals with immediate medical problems, not filling out forms. The Committee thinks that individuals residing in remote areas of the country who do not have access to “qualified persons” should be allowed to have their Form T2201 completed by someone such as a registered nurse who is familiar with their disability and who has a working knowledge of the mental and physical impairments covered by the DTC.

...there are probably other ways of accessing the kind of services you need. Clearly in the more difficult cases, complex cases, you could use telemedicine; you could use on-line support. You could connect the various providers of care in your community to the zone hospitals for that kind of linkage. So there would be ways of accessing it. (Dr. Claude Renaud, Associate Secretary General and Chief Medical Officer, Canadian Medical Association)<sup>18</sup>

Although the Committee heard that DTC eligibility is applied retroactively, most of us think that individuals should not have to wait long periods of time to apply for, and receive, the DTC. The Committee envisages long delays not only in terms of the lack of

---

<sup>17</sup> SSPD, *Evidence*, Meeting No. 13 (15:45), 29 January 2002.

<sup>18</sup> Ibid., (17:10)

availability of qualified persons to complete an initial DTC application, but also as a consequence of a CCRA request for supplementary information. We suggest that a registered nurse be added to the list of qualified persons.

3. **The Committee recommends that the government immediately amend the *Income Tax Act* to incorporate judicial decisions. For greater clarity, the Committee recommends that the government:**
  - (a) **Add “breathing” to the list of basic activities of daily living in paragraph 118.4(c);**
  - (b) **Amend the wording in subparagraphs 118.4(1)(c)(i) and (ii) to replace “thinking, perceiving and remembering” and “feeding and dressing oneself” by “thinking, perceiving or remembering” and “feeding or dressing oneself.”**
4. **The Committee recommends that following consultations (See Recommendation 6) the government amend the *Income Tax Act* to:**
  - (a) **Define “markedly restricted” in the context of each of the basic activities of daily living or some combination thereof. The Committee believes that these changes must clarify the meaning of “all or substantially all of the time” to reflect the reality of living with a disability;**
  - (b) **Redefine “prolonged” in order to capture individuals who have an impairment that is substantial and recurrent, although not necessarily lasting for a period of 12 continuous months;**
  - (c) **Reword subparagraphs 118.4(1)(c)(iii) and (iv) in order to better reflect the everyday situations of individuals with severe speaking and hearing impairments; and**
  - (d) **Add “registered nurse” to the list of qualified persons for those residing in a remote part of Canada where access to other medical professionals, especially a medical doctor, is extremely limited.**

### **III. CONSULTATION AND A NEW FORM T2201**

The Committee finds it both irritating and frustrating to know that some of the current problems with the Disability Tax Credit could have been avoided if the government had followed advice and recommendations that we, and our predecessors, have provided during the past decade. In our previous reports, this Committee has

emphasized the value of consultation as a means of ensuring that the right decisions are made and understood by the community as well as government departments. On two occasions, our predecessors in Parliament who studied the tax system and disability unanimously recommended consultations between the departments (Finance and the then National Revenue) and the community about the definition of disability and the criteria applied in determining eligibility for the Disability Tax Credit.<sup>19</sup> The Federal Task Force on Disability Issues succinctly pointed out the main reason for, and benefit of, talking to Canadians:

The law must be respected, of course, but the interpretation of the law must be fair and *must be seen to be fair* [sic].<sup>20</sup>

Despite these parliamentarians' previous attempts to rectify the situation, the members of this Committee confront a situation where we are being called upon to adjudicate conflicting claims: the departments on one hand versus the disability community and medical professions on the other.

On the departmental side, Alain Jolicoeur, the Deputy Commissioner of the CCRA, told us that:

The CCRA has a long record of effective consultation. That year [1996] we consulted with 55 different associations and advocacy groups representing persons with disability concerning the T2201 and the new brochure for 1996, entitled *Disability Tax Credit and You*. We received many suggestions. Those relating to legislative issues were passed along to the Department of Finance.<sup>21</sup>

The Committee may be lacking some evidence, but nonetheless the report of the Federal Task Force on Disability Issues published late in 1996 did not include any statement that the consultative process was sufficient, and in fact called for consultation with regard to Form T2201.<sup>22</sup> The Deputy Commissioner also stated that CCRA communicated and consulted with interest groups and associations on an ongoing basis

---

<sup>19</sup> For these recommendations see:

Standing Committee on Human Rights and the Status of Disabled Persons, *As True as Taxes: Disability and the Income Tax System*, Ottawa: March 1993, p. 9. It recommended that: The Department of Finance and representatives of the disability community, in collaboration with the Department of National Revenue (Taxation), and the Department of National Health and Welfare, should review and refine the definition of disability and its practical application that determines eligibility for the Disability Tax Credit.

Federal Task Force on Disability Issues, *Equal Citizenship for Canadians with Disabilities: The Will to Act*, Ottawa: 1996, p. 96. It recommended that: 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.

<sup>20</sup> Federal Task Force on Disability Issues, *Equal Citizenship for Canadians with Disabilities: The Will to Act*, Ottawa: 1996, p. 95.

<sup>21</sup> SSPD, *Evidence*, Meeting No. 13, (15:40), 11 December 2001.

<sup>22</sup> Federal Task Force on Disability Issues, *Equal Citizenship for Canadians with Disabilities: The Will to Act*, Ottawa: 1996. p. 95.



and that the Agency had a good working relationship with the medical professionals who were qualified to sign Form T2201. Mr. Jolicoeur also tabled a report produced by Brighton Research in 1999 that contained input from focus groups comprised of medical professionals.<sup>23</sup>

On the other hand, many of the witnesses representing various elements of the disability community and the medical professions told us they believed they had not been appropriately consulted at least during the past few years. This was particularly the case for those who represented or dealt with psychiatric or cognitive illnesses. Ed Pennington from the Canadian Mental Health Association remarked that:

In our view, the federal government has failed to consult with health professionals concerning the cognitive or intellectual capacities and limitations of the seriously mentally ill. As a result, they've really allowed false assumptions to be created about this population.<sup>24</sup>

Pauline Mantha from the Learning Disabilities Association of Canada told the Committee that she could not recall any consultations since Revenue Canada became the Canadian Customs and Revenue Agency in 1999.<sup>25</sup> Laurie Beachell of the Council of Canadians with Disabilities remarked that he believed that the medical profession, but not people with disabilities, had been consulted regarding the form.<sup>26</sup> Representatives from the disability community reported that in their view, the CCRA had not consulted with other government departments or agencies about sending out the recertification letter on October 19. With regard to the issue of "consultation fatigue" in the community that led to Revenue Canada's (and the CCRA's) decision to disband its disability advisory committee, the Committee was told that the community was ready to meet at any time to discuss issues like the reassessment letter.<sup>27</sup> Dr. John Service of the Canadian Psychological Association stated that his organization had its first meeting with the CCRA in September 2001. On behalf of the Canadian Medical Association, Dr. Henry Haddad, the President, said that:

The impression the Sub-Committee may have is that the CMA has been consulted extensively and on an ongoing basis. In fact these meetings, although productive, have only occurred on an ad hoc basis. I think at best, our working relationship could be described as hit and miss.<sup>28</sup>

---

<sup>23</sup> Brighton Research, *Awareness, Knowledge and Attitudes to the Disability Tax Credit Among Health Care Professionals*, Ottawa: December 1999.

<sup>24</sup> SSPD, *Evidence*, Meeting No 11 (16:20), 27 November 2001.

<sup>25</sup> Ibid., (17:20).

<sup>26</sup> SSPD, *Evidence*, Meeting No 9 (17:10), 20 November 2001.

<sup>27</sup> Ibid., (17:45).

<sup>28</sup> Canadian Medical Association, "Notes for an Address by Dr. Henry Haddad, President, Canadian Medical Association: Disability Tax Credit Program," Ottawa, January 2002.

A letter read to the Committee, pointed out the consequences of the lack of consultation particularly about the CCRA's request for recertification:

She [a recipient of the DTC] is not able to understand what is being asked of her. Letters such as the one you sent on October 9th cause her a great deal of unnecessary stress.... Put yourself in her parent's place. Can you imagine anyone saying their child is mentally handicapped or intellectually handicapped... if it were not true? It is the most painful thing her father and I have to deal with. People who work with the challenged adults of Canada may consider your letter a form of harassment.<sup>29</sup>

It is pointless for the Committee to get embroiled in adjudicating a dispute over whether consultations did, or did not, take place. In part, we suspect that the statements made by the community and medical representatives reflect a different view of what "consultations" comprise than does the department's. In our view, consultations imply more than a pro forma benediction delivered intermittently and at long intervals. At one point, Alain Jolicoeur, Deputy Commissioner of the CCRA, talked about his organization's distribution of 900 copies of a brochure. Later, at the same meeting, Kathy Turner, Director General of the CCRA, described this mailing as a consultation without discussing or describing any changes that resulted.<sup>30</sup> She repeated this assertion in a subsequent meeting.<sup>31</sup> Was it or wasn't it? In another example, with regard to walking, David Miller, the CCRA's Assistant Commissioner, told us that walking 50 metres became a criterion for determining eligibility prior to his organization's assumption of responsibility for administering the DTC. This measurement for walking was controversial even during the hearings of the previous Standing Committee on Human Rights and the Status of Persons with Disabilities a decade ago. It seems odd to us that it has not been dealt with through consultations and changes considered and/or made. We heard no evidence that this, in fact, was the case.<sup>32</sup>

In any event, the proof of the pudding is in the eating. Given the ongoing criticism by our witnesses from the medical professions and the community about the lack of consultation, it is obvious to us that whatever discussions took place were not very satisfactory in the long term. Furthermore, the fact that the consultation process has not been transparent has resulted in widely held suspicions that some disability groups had been consulted while others had not, or that the medical profession was provided with preferential treatment. We also heard that certain criteria incorporated in Form T2201 and not in the Act, have not been the subject of consultation. (This is particularly the case for individuals with mental and cognitive disabilities.) If they were, the CCRA and the

---

<sup>29</sup> SSPD, *Evidence*, Meeting No 9 (16:55), 20 November 2001.

<sup>30</sup> SSPD, *Evidence*, Meeting No 12 (15:40), 11 December 2001, compared to *Ibid.*, (15:50).

<sup>31</sup> SSPD, *Evidence*, Meeting No. 14 (16:15), 5 February 2002.

<sup>32</sup> SSPD, *Evidence*, Meeting No. 12 (15:50), 11 December 2001.

Department of Finance have not acted on the results of the consultation, nor have they publicly explained why they have not acted.<sup>33</sup> We do not expect every consultation to satisfy the community, but every consultation should be transparent and lead to a public report that sets out clearly who was consulted, the subject of the consultation and the nature of any action that CCRA or the Department of Finance propose to take (or not) as a result.

The Committee, therefore, takes our witnesses at their word in terms of their support for consultations. David Miller, Assistant Commissioner of the CCRA, told us that “We would love to improve the form. We think that our job at CCRA is to work with our client groups.” Kathy Turner, the Director General, told us that the CCRA would be looking for “input” from other sources including many of those who testified.<sup>34</sup> We heard expressions of support for greater consultations, both in the short term to revise Form T2201 and in the longer term to address overall questions of tax administration and policy development.<sup>35</sup> Our witnesses from the disability and medical communities also urged greater contact and meetings.<sup>36</sup> As Adele Furrie told the Committee:

I think initially what has to happen is all the stakeholders have to get together, persons with disabilities, the advocacy groups, the CCRA officials, the qualified persons. They all have to come together to understand what it is they're trying to do and come up with a form and a process that everybody agrees to.<sup>37</sup>

The Committee focussed on the need for consultations because we have concluded that the only solution to “fixing” Form T2201, and amending the *Income Tax Act* itself, will come from bringing together the interested parties. Consultation is the best way to ensure that the forms used to certify the DTC reflect both the *Income Tax Act* and the realities of living with a disabling condition. Without exception, our witnesses — experts, medical practitioners, individuals, disability organizations — condemned the current form as inappropriate in performing either of these two functions. During her appearance, Adele Furrie, an internationally recognized expert, went through Form T2201 at considerable length to show how definitions changed and where Form T2201 seems to differ from the Act. In addition, she pointed out that some of the questions on Form T2201 included objective measures while others did not. Some of these seem not to be

---

<sup>33</sup> This is particularly noticeable given the fact that the CCRA's report on the Disability Tax Credit contained many of the comments and criticisms regarding administration that we found during our hearings. (See: Brighton Research, “Awareness, Knowledge and Attitudes to the Disability Tax Credit Among Health Care Professionals, Ottawa: December 1999).

<sup>34</sup> SSPD, *Evidence*, Meeting No. 14 (16:35), 5 February 2002.

<sup>35</sup> SSPD, *Evidence*, Meeting No. 10 (16:45), 27 November 2002.

<sup>36</sup> For example, see Mr. Colin Cantlie statement in SSPD, *Evidence*, Meeting No. 11 (15:45), 4 December 2001.

<sup>37</sup> SSPD, *Evidence*, Meeting No. 13 (17:05), 29 January 2002.

appropriate given the language of the *Income Tax Act*. Dr. John Service explained the problem from the perspective of the form's ability to capture mental handicaps as "an attempt to use what is essentially a physical health template and culture to assess mental illness or psychological problems."<sup>38</sup> In the words of our witnesses:

While we do not have the data to determine the relative proportion of claimants for each category, many psychiatrists report anecdotally that the criteria, as presented in the instructions to the Form T2201, mean that their patients do not qualify, regardless of the severity of their illness.... Psychiatrists generally find the Form T2201 inappropriate. In an attempt to make the form easy to complete — it is not too simplistic — clearer definitions of "psychiatric" and "mental health disability" must be developed that allow practitioners to accurately describe their patients' conditions. (Dr. Blake Woodside, President-elect, Canadian Psychiatric Association)<sup>39</sup>

The impact of disability tax credit certificate T2201 is that we think it discriminates against people with Alzheimer's disease and related dementia. The questions requiring simple yes and no responses don't provide a fair and accurate assessment of such people's disability... We believe that the way Form T2201 is formulated reduces the health professional's ability to a narrow parameter of simple yes and no answers. (Mary Ann Chang, Executive Director, Alzheimer Society of Canada)<sup>40</sup>

This problem arises particularly in the definition of "all or almost all of the time" as 90%. We agree with all the organizations and individuals who appeared and unanimously pointed out that this did not apply to their situations. Harry Beatty from ARCH (Advocacy Resource Centre for the Handicapped) noted that the definitions in the *Income Tax Act* had not changed but that:

...what we have had over the last several years is the form has been redesigned. So as in many cases to make it less likely that a doctor will be comfortable in signing to support her or his patient's claim even though the legal test has not changed because, of course, the physician does not read the statute... On the form, the doctor used to be able to say, looking at everything "is there a severe and profound disability." In a sense, to make this global judgment on the whole person. This form has been redesigned to take it away.<sup>41</sup>

Medical practitioners pointed out that they find the form confusing and that they would like reworded questions that give them a better opportunity to define the levels of disability. Many of our witnesses also made recommendations about what appropriately ought to be included as questions in Form T2201. Although we support their desire to improve the form, a committee of Parliament, however, should not establish precise wording for particular questions. This should be left to departmental officials, medical and paramedical practitioners, people with disabilities, and experts in designing forms.

---

<sup>38</sup> Ibid., (15:45).

<sup>39</sup> Ibid., (15:50).

<sup>40</sup> SSPD, *Evidence*, Meeting No. 10 (16:15), 27 November 2001.

<sup>41</sup> SSPD, *Evidence*, Meeting No. 9 (17:05), 20 November 2001.

Many of our witnesses also had problems with the supplementary form that physicians and other qualified medical practitioners might be asked to fill out. Dr. John Service of the Canadian Psychological Association said that “there are problems with those questions as well. Some of them are not appropriate, some of them give information that doesn’t allow for a good assessment.”<sup>42</sup>

None of these concerns are new. They arose during the study by the Federal Task Force on Disability Issues which recommended six years ago that the government “should review the T2201 form, in consultation with the disability community to make it consistent with the statutory definition.”<sup>43</sup> The passage of time and failure to act has only increased the urgency.

- 5. The Committee recommends that all forms used to assess eligibility for the Disability Tax Credit be redesigned. The new Form T2201 should conform to the *Income Tax Act*, be less prescriptive and afford greater prominence to, and space for, a qualified person’s diagnosis. If necessary, the form should be either expanded or separated into different forms so that it (or they) contain questions related to an individual’s specific disability. A revised form should be referred to the Standing Committee on Human Resources Development and the Status of Persons with Disabilities before 1 December 2002 for consideration and study before it is publicly distributed.**
- 6. The Committee recommends that the CCRA and the Department of Finance take immediate steps to consult widely to develop amendments to the *Income Tax Act* (see Recommendation 4), a better DTC application process and application form. This consultation should include representatives of organizations concerned with various types of disability, representatives of professional groups of medical practitioners qualified to certify eligibility for the DTC, and the Office for Disability Issues. The consultation exercise should pay particular attention to the need to develop eligibility criteria and an application form that treat mental illness, and cognitive disabilities in an appropriate manner. The CCRA and Department of Finance should submit a written report to this Standing Committee about the nature and results of its consultative process by 1 December 2002.**

---

<sup>42</sup> SSPD, *Evidence*, Meeting No. 13 (16:45), 29 January 2002.

<sup>43</sup> Federal Task Force on Disability Issues, *Equal Citizenship for Canadians with Disabilities: The Will to Act*, Ottawa: 1996, p.96, Recommendation 47.

7. **The Committee recommends that the CCRA and the Department of Finance establish a joint senior level advisory group to conduct ongoing consultations among senior level officials (including the Office for Disability Issues), advocacy groups, representatives of organizations of professional groups of medical practitioners who complete Form T2201, and individuals. This advisory group should deal with ongoing issues dealing with DTC program administration and effectiveness to ensure that the DTC is meeting its stated purpose and objectives.**

#### **IV. COSTS TO INDIVIDUALS**

Throughout our hearings, we heard many witnesses comment about the cost that an individual must assume to get a medical professional to complete Form T2201. This arose in several different circumstances. The first is when the individual applies for the credit. Estimates of this cost to the individual ranged from \$25 to \$150.<sup>44</sup> For people with mental and cognitive disabilities, Dr. John Service told us that a \$50 fee essentially represents a reduced rate assessment since psychologists charge more than this for their services.<sup>45</sup> Secondly, the question of cost arises in getting a medical professional to recertify an individual's eligibility during the recent reassessment process. The Canadian Hard of Hearing Association told us that this cost was onerous enough to warrant some kind of offsetting measure (for example allowing the taxpayer to reclaim part of the cost as a medical expense). The third time it comes up is in the requirement for an individual to see a doctor or other medical professional for a second time, if the CCRA requires supplementary information.

In the CCRA's report prepared by Brighton Associates, the costs and time of re-assessing and filling out the supplementary information forms was singled out as a problem. This report stated that most of those who participated in the focus groups felt that the CCRA should pay for these follow-ups.<sup>46</sup> Other witnesses discussed the prohibitive costs of an evaluation (up to \$3000) by a psychologist to document a learning disability and certify eligibility for the DTC. Dr. Henry Haddad of the Canadian Medical Association told the Committee about the burden for little — or no — remuneration that doctors are being forced to assume in filling out the supplementary forms.<sup>47</sup> Finally, Harry Beatty from ARCH suggested that medical costs can prejudice an individual's ability to

---

<sup>44</sup> SSPD, *Evidence*, Meeting No. 9 (17:25), 20 November 2001.

<sup>45</sup> SSPD, *Evidence*, Meeting No. 13 (16:50), 29 January 2001.

<sup>46</sup> Brighton Research, *Awareness, Knowledge and Attitudes to the Disability Tax Credit Among Health Care Professionals*, Ottawa: December 1999, p. iii.

<sup>47</sup> SSPD, *Evidence*, Meeting No 13, (15:35), 29 January 2002.

appeal since physicians are increasingly reluctant to produce in-depth reports because they may have to get their patients to pay a considerable amount of money in order to receive a credit whose maximum value is less than \$1000 per year.<sup>48</sup>

According to our witnesses, many doctors have difficulty in charging a patient to complete a form that would deny that person the right to receive the DTC. Dr. Henry Haddad provided an overview from the medical perspective when he told us that:

... with the majority of cases involving the DTC program, the patient seeking the tax credit may not have the money to cover the costs associated with the program and therefore, the physician is reluctant to charge fees. Thus, in this and many other cases, a physician has performed two evaluations, completed two forms, which combined could take well over an hour and, with a complex case, could take even longer for which, at the end of the day, there is no payment. This situation leads to frustration for both the patient and physician and it often ends up compromising the patient-physician relation. It also leads to increased mistrust of the system.<sup>49</sup>

Laurie Beachell of the Council of Canadians with Disabilities summed up the issue from the perspective of the disability community when he stated that:

...we are using one of the most expensive systems of certification and eligibility. We have more people going to doctors for the disability tax credit, the Canada Pension Plan disability benefits, parking passes etc., than ever go to their doctor for any health concerns. We are having doctors fill out forms for which now many are charging... which is not an insured benefit or an insured service. Therefore, it is again a cost borne by the individual.<sup>50</sup>

The Committee believes that individuals should not be forced to assume an undue financial burden for a tax credit that is worth less than \$1000 per year, particularly in view of the fact that many individuals with severe disabilities typically have low incomes. Although charges associated with filling Form T2201 are not covered by provincial medical plans, some individuals can recover part of these costs. Individuals should be informed that they may be eligible to deduct the fee charged to complete Form T2201 if they qualify for the Medical Expenses Tax Credit.

- 8. The Committee recommends that beginning with the tax year 2002, the government pay the cost for the services of a medical practitioner who provides the CCRA with any additional information beyond completing Form T2201 when this information results in a DTC claim or appeal being granted. This includes any charge for providing CCRA with supplementary information about an individual's DTC recertification or a medical appraisal for the**

---

<sup>48</sup> SSPD, *Evidence*, Meeting No. 9 (16:05), 20 November 2001.

<sup>49</sup> Canadian Medical Association, "Notes for an Address by Dr. Henry Haddad, President Canadian Medical Association: Disability Tax Credit Program," Ottawa: January 2002.

<sup>50</sup> SSPD, *Evidence*, Meeting No 9 (15:45), 20 November 2001.

**purpose of appealing the denial of a DTC claim. For greater clarity, applicants or appellants would not be able to claim these costs for providing any additional information beyond a completed Form T2201 until their DTC claim is approved.**

- 9. The Committee recommends that in order to use health-care resources more efficiently and reduce potential costs for DTC claimants, the recertification process be streamlined to easily identify the instances where an individual's disability has remained unchanged or worsened.**

## **V. INFORMATION AND COMMUNICATIONS**

It is obvious to the Committee that a large part of the problem with the adverse reaction to the October 19 letter resulted from the lack of a communications plan. This need for an educational campaign to explain the Disability Tax Credit is not new. The last evaluation of the DTC by the Department of Finance in 1991 pointed to:

... 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 [of disability] is meant to apply in various situations.<sup>51</sup>

During its 1993 study of the tax system, the Standing Committee on Human Rights and the Status of Persons with Disabilities recommended better communications<sup>52</sup> and so did the report prepared by Brighton Research for the CCRA that recommended two separate efforts, one for accountants and financial advisers and another for health care professionals.<sup>53</sup> Moreover, a better-informed population might reduce the number of applications. For example, if people with less severe disabilities understood the criteria, they would be spared the time and expense of filling out Form T2201 and visiting a medical professional.

---

<sup>51</sup> Department of Finance, *Disability Tax Credit: Evaluation of Recent Experience*, Ottawa: 1991, p. iii.

<sup>52</sup> Standing Committee on Human Rights and the Status of Persons with Disabilities, *As True as Taxes: Disability and the Income Tax System*, Ottawa: 1993. p. 8. Recommendation 3 read: The Department of Finance and the Department of National Revenue should undertake an information campaign to publicize the availability of, and the criteria that apply to, medical and disability-related provisions in the income tax system. All information, both for medical practitioners and for people with disabilities, should be available in alternate formats and, for people with mental handicaps, in plain language. Relevant tax forms should be available in alternate formats.

<sup>53</sup> Brighton Research, *Awareness, Knowledge and attitudes to the Disability Tax Credit Among Health Care Professionals*, Ottawa: December, 1999, p. 1.



Several witnesses pointed out the critical importance of having appropriate communications available and in alternate formats pertaining to all aspects of the DTC.<sup>54</sup> Harry Beatty of ARCH told us that in the 1980s, doctors appeared to be better informed thanks to information provided at the time by Revenue Canada. “It wasn’t perfect, maybe it did draw a line in the wrong place for some disabilities, but I think there was more of an attempt to capture what might be a significant or severe disability.”<sup>55</sup>

The CCRA, in fact, admitted that it had not initiated communications to persons with disabilities and told us, as an illustration, that the recipients of the letter requesting reassessment had not been warned in advance that this would happen. With regard to an adequate program of information and education, the Deputy Commissioner reported that:

[In 1996, t]hose suggestions that could be implemented without the legislative change were incorporated into the form and the new brochure. This input assisted greatly in improving both publications. A copy of the updated brochure was mailed to all members of Parliament and to some 900 associations and advocacy groups.<sup>56</sup>

In addition, the Agency explained that any changes in the criteria should be accompanied by a communication strategy to tell people about them.<sup>57</sup> The officials also admitted that they recognized the importance of working with the community and using its networks to communicate so that people with disabilities would get information via their Web sites or newsletters. At the same time, it appeared to the Committee that the change to the form regarding life-sustaining therapy had not been adequately explained since many disability organizations did not know that it applied more widely than to people with cystic fibrosis or kidney disease.<sup>58</sup>

The Committee wants to ensure that individuals whose DTC claim has been denied have clear and complete information about their right to appeal. This right needs to be set out prominently in Form T2201 and also be included in any information and communications campaigns that the CCRA puts together. As Harry Beatty from ARCH told the Committee:

Of course, there are appeal rights but it’s an uphill battle for most individuals and families. Of course many people don’t understand an appeal right. Some people miss the ninety days for filing the notice of objection....<sup>59</sup>

---

<sup>54</sup> SSPD, *Evidence*, Meeting No. 11 (15:50), 4 December 2001.

<sup>55</sup> SSPD, *Evidence*, Meeting No. 9 (17:40), 20 November 2001.

<sup>56</sup> SSPD, *Evidence*, Meeting No. 12 (15:40), 11 December 2001.

<sup>57</sup> SSPD, *Evidence*, Meeting No. 14 (16:35), 5 February 2002.

<sup>58</sup> SSPD, *Evidence*, Meeting No. 11 (16:35), 4 December 2001.

<sup>59</sup> SSPD, *Evidence*, Meeting No. 9 (16:05), 20 November 2001.

10. The Committee recommends that the CCRA put in place an information and education strategy and campaign for the 2002 tax year. Prepared in co-operation with the disability community and medical practitioners, this information strategy should:
  - (a) Educate the general public about the purpose, nature and provisions of the Disability Tax Credit;
  - (b) Provide information to assist persons qualified to certify individuals' eligibility for the DTC (particularly those dealing with mental, psychiatric and learning disabilities) to understand the nature of the certification process and the nature of the information required for certification.
  - (c) Include a detailed guide for tax preparers, financial advisors and their clients that outlines program eligibility criteria and preliminary steps to enable taxpayers to decide whether or not to apply for the credit.
11. The Committee recommends that the CCRA deal appropriately with appeals by:
  - (a) Including in information materials produced by the CCRA information about the right to appeal for those whose DTC application has been denied. This information should be placed in a prominent position on Form T2201.
  - (b) Modifying the appeal procedure for those denied the Disability Tax Credit to accommodate persons with disabilities (for example, extending the time limit). These potential modifications should be discussed and agreed to by the advisory group as mentioned in Recommendation 7 of this report.

## **VI. DECIDING ELIGIBILITY**

The Committee was unclear about precisely who made the decisions to grant or deny eligibility for the Disability Tax Credit. While we received some clarification for this from the CCRA officials, we have also been left with questions.

In dealing with the nature of the assessment of DTC applications within CCRA, David Miller, Assistant Commissioner, told us that the federal government was not proceeding along the Québec model where the medical professional was allowed to put "yes", "no" or "not assessed." He explained the CCRA's reasoning for this:

...it was clear that if we put down “yes”, “no” and didn’t leave it to interpretation that it would be the health care professional who decided. It would not be someone in CCRA that then looked and read the information and said, well I don’t think they meet the criteria or not. It would be the person involved with their client, face to face, or in a lengthy involvement and understanding of their disability that would then make the decision, it would not be someone reviewing a form.<sup>60</sup>

In addition to this, Maureen Tapp, Director of Special Programs and Partnerships, told us that where there was “not sufficient” information, the CCRA would ask for clarification from the physician or certifying person. The CCRA informed the Committee that these clarification letters are “customized to the case.” If any doubts remain, the CCRA would telephone the qualifying practitioner who filled the forms.

For our part, however, we thought that the purpose of the form was to allow the medical professional most familiar with the disability to certify eligibility based on his professional opinion. This was the system in place in the early 1990s and is in line with the self-assessing nature of Canada’s income tax system. Now, taxpayers, except those who claim the DTC, are generally allowed to self-assess and are subject to the CCRA’s routine audit procedures. Not following the judgment of the person most familiar with the disabled person puts the medical professional in a position of double jeopardy. They are, as they told us, on the line, they don’t like it, and yet, some person with unknown qualifications in the CCRA is allowed to second guess them.

In addition, the Committee believes that those who have been turned down for the Disability Tax Credit and the medical professional who signed the T2201 should be clearly told the reason why. Pauline Mantha from the Learning Disabilities Association of Canada put forward very good reasons for this when she stated that:

In our view, medical practitioners who sign the forms put their accreditation on the line by signing these forms and it seems to us only reasonable that if CCRA has the power to refuse these claims, that they should have the professional courtesy to explain why.<sup>61</sup>

She went on to inform us that the manner that the CCRA has handled applications from people with cognitive disabilities has been erratic. The Committee believes that having to state a reason for turning down an application would, in fact, bring some consistency to the process of deciding who gets, and who does not get, the Disability Tax Credit.

When questioned about this later, the CCRA’s officials would not categorically tell the Committee whether, or at what level of the application/evaluation process, medical professionals employed by the CCRA were making the decisions about who was eligible for the DTC. Tom Kissner, Manager Disability Programs Section, stated that:

---

<sup>60</sup> SSPD, *Evidence*, Meeting No. 12 (16:05), 11 December 2001.

<sup>61</sup> SSPD, *Evidence*, Meeting No. 10 (16:25), 27 November 2001.

We'd like to think we have a couple of people who know something about how to interpret the forms.... We have specific units within each tax centre of individuals who are trained for the DTC. We provide them with instruction from headquarters. We give them policy guidelines. We have an operations manual and so on.... If it's something that requires further interpretation or contact with the doctor, it comes to our operation at headquarters where we have registered nurses who operate as medical advisors. They would be the ones who would contact the doctor by phone or some follow-up in response to a letter like that to clarify medical issues.<sup>62</sup>

In light of other information, Mr. Kissner's remarks need to be clarified. We received no evidence that the CCRA consulted medical specialists inside or outside the Agency. In the Committee's view, this is a retrograde move from previous positive practices. In 1991, the evaluation of the Disability Tax Credit discusses the assistance that the medical advisors in Health Canada had provided in evaluating the validity of DTC claims.<sup>63</sup>

Apart from this, Pauline Mantha of the Learning Disabilities Association of Canada recommended more training for the CCRA staff in dealing with mental and cognitive illnesses because these are most difficult to evaluate:

To pretend that, with all due respect to the expertise that they do have, CCRA officials have the training and the expertise to make these evaluations is inappropriate. And so they should have ongoing training.<sup>64</sup>

In its brief to the Committee, the Canadian Hard of Hearing Association also recommended training and set out specific parameters: that it take place every 18 months and include front-line workers, policy and decision makers and be presented by persons with disabilities.<sup>65</sup>

**12. The Committee recommends that by 1 January 2003, any decision by the CCRA to grant or deny an individual's application for the Disability Tax Credit be made by a qualified person as set out in the *Income Tax Act* (118.3(1)(a.2)) (currently a medical doctor, optometrist, audiologist, occupational therapist, psychologist or speech therapist).**

---

<sup>62</sup> SSPD, *Evidence*, Meeting No. 14 (16:55), 5 February 2002. The CCRA's Brighton Research report pointed out, however, that medical professionals are reluctant to provide information over the telephone.

<sup>63</sup> Department of Finance, *Disability Tax Credit: Evaluation of Recent Experience*, Ottawa: 1991.

<sup>64</sup> SSPD, *Evidence*, Meeting No. 10 (16:30), 27 November 2001.

<sup>65</sup> Canadian Hard of Hearing Association, "Presentation Notes", December 2001. See also SSPD, *Evidence*, Meeting No. 11 (15:45), 4 December 2001.

13. **The Committee recommends that when the CCRA rejects an application for the DTC, the Agency provide the claimant with a written explanation setting out the reasons that the application has been refused and setting out the applicant's rights and procedures for an appeal.**
14. **The Committee recommends that the CCRA provide all employees who administer DTC with training regarding the nature of disability, the purpose of the DTC, and the administrative challenges in ensuring fair administration. This training should involve members of the disability community and should pay particular attention to the complexities associated with assessing cognitive and mental disabilities.**

## **VII. RE-EVALUATION AND REFORM**

Although the Committee's study dealt with the administrative aspects of the Disability Tax Credit, almost all our witnesses placed the DTC in the broader context of the tax treatment of persons with disabilities. Again, we were struck by the fact that despite the recommendations of Parliament for the past decade, the government has not carried out any comprehensive review of the tax system as it pertains to people with disabilities. Even the last evaluation of the Disability Tax Credit was conducted more than a decade ago. Dr. Claude Renaud of the Canadian Medical Association analyzed the current situation as:

... symptomatic of a program that's in disarray. I think that the fact that you would have to send out a letter to make the program more equitable, to correct some wrongs, okay, is symptomatic of the fact that the forms are inadequate, that the forms aren't consistent with the legislation, that the updating process was bureaucratized, as opposed to being supported by the political wing of government or the government itself or society itself. So I think that a better way would be to go back to the board, in terms of looking at the legislation and if Canadians want this tax credit to become more generous, well, then, a decision is made to make it more generous. As you've said, let's look at the definitions and let's look at the operational issues, the logistical issues, and make sure that the admin process that we've developed is a good one, one that can be validated effectively at all levels.<sup>66</sup>

The Committee is aware that the DTC requires trade-offs to be made between the objectives of fairness, certainty of application and administrative efficiency. We believe that it is time for the government to study whether a reasonable balance has been struck among these objectives.

---

<sup>66</sup> SSPD, *Evidence*, Meeting No. 13, (17:00), 29 January 2002.

**15. The Committee recommends that the Department of Finance conduct a comprehensive evaluation of the Disability Tax Credit and that this evaluation be tabled with the Standing Committee on Human Resources Development and the Status of Persons with Disabilities no later than 31 December 2002.**

Throughout its work, the Committee recognized that despite our desire to restrict this study to the administration of the DTC, many of our witnesses quite understandably did not distinguish the aim of tax policy and administration from use of the tax system to achieve social objectives. One analyst has written that:

Social policy considerations are defined as those that address the manner in which economic resources are allocated and distributed among members of the community. Tax policy, on the other hand, deals with the collection of government revenues in a way that treats taxpayers equitably, has a minimal effect on their economic decisions, and is relatively easy to understand and administer. These goals are known as equity, efficiency and simplicity. With respect to disability-related expenses, social policy will determine the extent to which these expenses are borne privately by the disabled and those who support them or by society as a whole. Tax policy concerns the manner expenses borne privately by individuals and families ought to be taken into account in computing an individual's tax payable.<sup>67</sup>

We received testimony, too voluminous to cite here, that the Disability Tax Credit must be considered in the light of social policy objectives for people with disabilities and not just in the light of its place as a tax measure. Increasingly, governments have been using the tax system to deliver social benefits, but in the case of the DTC, the Committee has received ample proof that this appears to be done without really looking at what the outcomes are, or ought to be. When asked about whether the DTC was too restrictive, Mr. Serge Nadeau from the Department of Finance replied that "...there's a trade-off that must be made between the cost, the fiscal cost, the fairness also; and also how easy it can be administered because the tax system is a very blunt instrument."<sup>68</sup> In looking at these trade-offs and applying them, previous studies of the tax system by parliamentarians went much further than we are prepared to go without receiving further evidence.<sup>69</sup> Nonetheless, the Committee strongly believes that these questions need to be the subject of public debate.

---

<sup>67</sup> David G. Duff, *Disability and the Federal Income Tax Act: Executive Summary*, Williams Research, Toronto: February 2000 (Executive summary of Public Policy Working Paper #WR02). p. ii.

<sup>68</sup> SSPD, *Evidence*, Meeting No. 14 (15:55), 5 February 2002.

<sup>69</sup> See: Standing Committee on Human Rights and the Status of Disabled Persons, *As True as Taxes: Disability and the Income Tax System*, Ottawa: March 1993; Federal Task Force on Disability Issues, *Equal Citizenship for Canadians with Disabilities: The Will to Act*, Ottawa, 1996.

16. The Committee recommends that the government undertake a comprehensive examination of all the federal tax system's measures to support persons with disabilities. As a basis for public discussion, the government should prepare and release a paper by 31 March 2003 outlining possible options for reform. This paper should specifically include a discussion of combining tax measures (e.g. the Disability Tax Credit and the Medical Expenses Tax Credit), refundability, and a registered savings plan (with a grant component like the RESP) for children with disabilities who may not be able to benefit from higher education but who require financial support to live.





## LIST OF RECOMMENDATIONS

---

1. The Committee recommends that:
  - (a) The CCRA send a letter to every individual who received the letter dated 19 October 2001 requesting DTC recertification. This correspondence should apologize for the tone of the letter and provide a complete explanation as to why the CCRA requested recertification.
  - (b) All individuals who obtain recertification as a result of the October 19 letter be compensated upon the production of a receipt for any costs incurred in obtaining the services of a qualified person to complete Form T2201 or for providing the CCRA with any supplementary information.
  - (c) The CCRA inform all recipients of the October 19 letter that anyone who has been reassessed and refused the DTC can reapply once Form T2201 is redesigned (See Recommendation 5). In the meantime, the CCRA should also advise these individuals of their right to appeal the decision.
2. The Committee recommends that no new requests for recertification be sent to individuals who have claimed the DTC in whole or in part during the period 1986 to 1996 until Form T2201 is redesigned (See Recommendation 5).
3. The Committee recommends that the government immediately amend the *Income Tax Act* to incorporate judicial decisions. For greater clarity, the Committee recommends that the government:
  - (a) Add “breathing” to the list of basic activities of daily living in paragraph 118.4(c);
  - (b) Amend the wording in subparagraphs 118.4(1)(c)(i) and (ii) to replace “thinking, perceiving and remembering” and “feeding and dressing oneself” by “thinking, perceiving or remembering” and “feeding or dressing oneself.”

4. The Committee recommends that following consultations (See Recommendation 6) the government amend the *Income Tax Act* to:
  - (a) Define “markedly restricted” in the context of each of the basic activities of daily living or some combination thereof. The Committee believes that these changes must clarify the meaning of “all or substantially all of the time” to reflect the reality of living with a disability;
  - (b) Redefine “prolonged” in order to capture individuals who have an impairment that is substantial and recurrent, although not necessarily lasting for a period of 12 continuous months;
  - (c) Reword subparagraphs 118.4(1)(c)(iii) and (iv) in order to better reflect the everyday situations of individuals with severe speaking and hearing impairments; and
  - (d) Add “registered nurse” to the list of qualified persons for those residing in a remote part of Canada where access to other medical professionals, especially a medical doctor, is extremely limited.
5. The Committee recommends that all forms used to assess eligibility for the Disability Tax Credit be redesigned. The new Form T2201 should conform to the *Income Tax Act*, be less prescriptive and afford greater prominence to, and space for, a qualified person’s diagnosis. If necessary, the form should be either expanded or separated into different forms so that it (or they) contain questions related to an individual’s specific disability. A revised form should be referred to the Standing Committee on Human Resources Development and the Status of Persons with Disabilities before 1 December 2002 for consideration and study before it is publicly distributed.
6. The Committee recommends that the CCRA and the Department of Finance take immediate steps to consult widely to develop amendments to the *Income Tax Act* (see Recommendation 4), a better DTC application process and application form. This consultation should include representatives of organizations concerned with various types of disability, representatives of professional groups of medical practitioners qualified to certify eligibility for the DTC, and the Office for Disability Issues. The consultation exercise should pay particular attention to the need to develop eligibility criteria and an application form that treat mental illness, and cognitive disabilities in an appropriate manner. The

**CCRA and the Department of Finance should submit a written report to this Standing Committee about the nature and results of its consultative process by 1 December 2002.**

- 7. The Committee recommends that the CCRA and the Department of Finance establish a joint senior level advisory group to conduct ongoing consultations among senior level officials (including the Office for Disability Issues), advocacy groups, representatives of organizations of professional groups of medical practitioners who complete Form T2201, and individuals. This advisory group should deal with ongoing issues dealing with DTC program administration and effectiveness to ensure that the DTC is meeting its stated purpose and objectives.**
- 8. The Committee recommends that beginning with the tax year 2002, the government pay the cost for the services of a medical practitioner who provides the CCRA with any additional information beyond completing Form T2201 when this information results in a DTC claim or appeal being granted. This includes any charge for providing CCRA with supplementary information about an individual's DTC recertification or a medical appraisal for the purpose of appealing the denial of a DTC claim. For greater clarity, applicants or appellants would not be able to claim these costs for providing any additional information beyond a completed Form T2201 until their DTC claim is approved.**
- 9. The Committee recommends that in order to use health-care resources more efficiently and reduce potential costs for DTC claimants, the recertification process be streamlined to easily identify the instances where an individual's disability has remained unchanged or worsened.**
- 10. The Committee recommends that the CCRA put in place an information and education strategy and campaign for the 2002 tax year. Prepared in co-operation with the disability community and medical practitioners, this information strategy should:**
  - (a) Educate the general public about the purpose, nature and provisions of the Disability Tax Credit;**
  - (b) Provide information to assist persons qualified to certify individuals' eligibility for the DTC (particularly those dealing with mental, psychiatric and learning disabilities) to understand the nature of the certification process and the nature of the information required for certification.**

- (c) Include a detailed guide for tax preparers, financial advisors and their clients that outlines program eligibility criteria and preliminary steps to enable taxpayers to decide whether or not to apply for the credit.
- 11. The Committee recommends that the CCRA deal appropriately with appeals by:
  - (a) Including in information materials produced by the CCRA information about the right to appeal for those whose DTC application has been denied. This information should be placed in a prominent position on Form T2201.
  - (b) Modifying the appeal procedure for those denied the Disability Tax Credit to accommodate persons with disabilities (for example, extending the time limit). These potential modifications should be discussed and agreed to by the advisory group as mentioned in Recommendation 7 of this report.
- 12. The Committee recommends that by 1 January 2003, any decision by the CCRA to grant or deny an individual's application for the Disability Tax Credit be made by a qualified person as set out in the *Income Tax Act* (118.3(1)(a.2)) (currently a medical doctor, optometrist, audiologist, occupational therapist, psychologist or speech therapist).
- 13. The Committee recommends that when the CCRA rejects an application for the DTC, the Agency provide the claimant with a written explanation setting out the reasons that the application has been refused and setting out the applicant's rights and procedures for an appeal.
- 14. The Committee recommends that the CCRA provide all employees who administer the DTC with training regarding the nature of disability, the purpose of the DTC, and the administrative challenges in ensuring fair administration. This training should involve members of the disability community and should pay particular attention to the complexities associated with assessing cognitive and mental disabilities.
- 15. The Committee recommends that the Department of Finance conduct a comprehensive evaluation of the Disability Tax Credit and that this evaluation be tabled with the Standing Committee on Human Resources Development and the Status of Persons with Disabilities no later than 31 December 2002.

16. The Committee recommends that the government undertake a comprehensive examination of all the federal tax system's measures to support persons with disabilities. As a basis for public discussion, the government should prepare and release a paper by 31 March 2003 outlining possible options for reform. This paper should specifically include a discussion of combining tax measures (e.g. the Disability Tax Credit and the Medical Expenses Tax Credit), refundability, and a registered savings plan (with a grant component like the RESP) for children with disabilities who may not be able to benefit from higher education but who require financial support to live.



## APPENDIX A LIST OF WITNESSES

Associations and Individuals	Date	Meeting
<b>Advocacy Resource Centre for the Handicapped</b> Harry Beatty	20/11/2001	9
<b>Canadian Association for Community Living</b> Audrey Cole, Former Board Member, Family Member Connie Laurin-Bowie, Director, Policy and Programs		
<b>Canadian National Institute for the Blind</b> Myriam Girard, Researcher/Writer Vangelis Nikias, National Director		
<b>Council of Canadians with Disabilities</b> Laurie Beachell, National Coordinator		
<b>Alzheimer Society of Canada</b> Mary Ann Chang	27/11/2001	10
<b>Canadian Mental Health Association</b> Edward Pennington, General Director Wendy Steinberg		
<b>Learning Disabilities Association of Canada</b> Pauline Mantha, Executive Director		
<b>Schizophrenia Society of Canada</b> Len Wall, President, Schizophrenia Society of Ontario		
<b>As an Individual</b> Lembi Buchanan		
<b>Canadian Hard of Hearing Association</b> Colin Cantlie, President Janice McNamara	04/12/2001	11

<b>Associations and Individuals</b>	<b>Date</b>	<b>Meeting</b>
<b>Multiple Sclerosis Society of Canada</b> Deanna Groetzinger	04/12/2001	11
<b>Canada Customs and Revenue Agency</b> Alain Jolicoeur, Deputy Commissioner David Miller, Assistant Commissioner Kathy Turner, Director General, Benefit Programs Directorate	11/12/2001	12
<b>Adele Furrie Consulting</b> Adele Furrie, President	29/01/2002	13
<b>Canadian Medical Association</b> Henry Haddad, M.D., President Claude Renaud, Associate Secretary General and Chief Medical Officer		
<b>Canadian Psychiatric Association</b> Blake Woodside, President Elect		
<b>Canadian Psychological Association</b> John C. Service, Psychologist, Executive Director		
<b>Canada Customs and Revenue Agency</b> Tom Kissner, Manager, Disability Programs Section Maureen Tapp, Director, Special Programs and Partnerships Kathy Turner, Director General, Benefit Programs Directorate	05/02/2002	14
<b>Department of Finance</b> Robert Dubrule, Senior Tax Policy Officer, Business, Property and Resource Income and Corporate Reorganizations Andrée Houde, Senior Tax Policy Officer, Personal Income Tax Division Serge Nadeau, Director, Personal Income Tax Division		



## **APPENDIX B LIST OF BRIEFS**

---

“Confédération des organismes de personnes handicapées du Québec”



## REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to the report within one hundred and fifty (150) days.

Copies of the relevant Minutes of Proceedings of the Standing Committee on Human Resources Development and the Status of Persons with Disabilities (*Meeting No 54 which includes this report*) is tabled.

Respectfully submitted,

Judi Longfield, M.P.  
Chair



# **The Disability Tax Credit: Administrative Issues**

---

## **SUPPLEMENTARY OPINION OF THE BLOC QUÉBÉCOIS**

Following the numerous reactions to the infamous letter of October 19, 2001, from the Customs and Revenue Agency of Canada (CCRA), the decision to do an exhaustive study of the issues surrounding the disability tax credit was very favourably received by the Bloc Québécois.

We would like to acknowledge the speed and efficiency with which the sub-committee took up this challenge. The commentary of witnesses enriched the understanding of different parliamentarians from different parties, and we are happy to emphasize the degree to which *The Disability Tax Credit: Administrative Issues* demonstrates how well the members of the sub-committee listen. The identification of the problem, its sound diagnosis and the measures the report suggests demonstrate that the sub-committee chose to side with the most vulnerable individuals in society, such that the battle for equality and social justice will finally underscore measures that respect the needs of people.

The report is proof that to achieve success, collaboration is more successful than confrontation. The Bloc Québécois can only hope that the recommendations in the report become, as soon as possible, a reality and that persons with disabilities, whether they live in Québec or in Canada, will finally have good reason to believe that they are full citizens.

Madeleine Dalphond-Guiral

Member of Parliament, Laval-Centre

Bloc Québécois critic for Persons with Disabilities



# MINUTES OF PROCEEDINGS

Thursday, March 14, 2002  
(Meeting No. 54)

The Standing Committee on Human Resources Development and the Status of Persons with Disabilities met at 11:06 a.m. this day, in Room 209, West Block, the Chair, Judi Longfield, presiding.

*Members of the Committee present:* Libby Davies, Raymonde Folco, Monique Guay, Dale Johnston, Judi Longfield, Gurbax Malhi, Joe McGuire, Carol Skelton, Diane St-Jacques and Alan Tonks.

*Acting Members present:* Norman Doyle for Greg Thompson and Carolyn Bennett for Tony Ianno.

*In attendance: From the Library of Parliament:* Kevin Kerr, Julie Mackenzie and Bill Young, Research officers.

*Witnesses: From the Canada Customs and Revenue Agency:* Paul Burkholder, Director General, Strategy, Policy and Planning Directorate, Human Resources Branch; Christine Coffey, Director, Resourcing and Career Management Division, Human Resources Branch; Elaine Courtney, Chief, Employment Equity Section, Human Resources Branch. *From the Department of Fisheries and Oceans:* George Da Pont, Assistant Deputy Minister, Human Resources Sector; Yves Dupuis, Acting Director General, Human Resources Strategies Directorate.

Pursuant to its Order of Reference dated December 3, 2001 and to section 44 of the *Employment Equity Act*, the Committee resumed consideration of the statutory review of the Act (See minutes of Proceedings of December 11, 2001 — Meeting No. 44).

Carolyn Bennett presented the report of the Sub-Committee on the Status of Persons with Disability on the subject of the Disability Tax Credit.

Paul Burkholder and George Da Pont made opening statements.

On motion by Carolyn Bennett, it was agreed, — That the draft report of the Sub-Committee on the Status of Persons with Disabilities *Getting it Right for Canadians: The Disability Tax Credit* be adopted as the Seventh Report of the Standing Committee on Human Resources Development and the Status of Persons with Disabilities.

It was agreed, — That the clerk be authorized to make such editorial and typographical changes as necessary without changing the substance of the report;

It was agreed, — That the Chair be authorized to present the report to the House;

It was agreed, — That the Committee print 250 copies of its report in a tumble bilingual format and that the Committee be authorized to produce it in an alternative format if warranted;

It was agreed, — That, pursuant to Standing Order 109, the Committee request that the government provide a comprehensive response to this report;

It was agreed, — That, pursuant to Standing Order 108(1)(a), the Committee authorizes the printing of the supplementary opinion(s) as an appendix to this report immediately after the signature of the Chair; that the supplementary opinion(s) be limited to not more than 1 page; (font = 12; line spacing = 1.5) and that the supplementary opinion(s) be delivered in electronic format in both official languages to the clerk of the Committee not later than 2:00 p.m., Friday, March 15, 2002.

Paul Burkholder, George Da Pont and other witnesses answered questions.

At 12:51 p.m., the Committee adjourned to the call of the Chair.

Danielle Belisle  
Clerk of the Committee