SUPREME COURT OF CANADA ISSUES REASONS IN EATON DECISION

On Thursday Feb. 6, 1997, the Supreme Court of Canada released its reasons for allowing the appeal of the Brant County Board of Education in the Eaton case. The appeal centred on whether the educational segregation of children with disabilities, contrary to their parents' wishes, violates the Charter of Rights and Freedoms.

The Court held that on the facts of the case, as found by a Special Education Tribunal, Emily Eaton had not been discriminated against. However, its reasons contain several legal principles which will be extremely important for parents and others fighting for the inclusion and accommodation of children with disabilities in the regular school system.

Contrary to the impression left by some media reports of the case, the Supreme Court did not hold that segregation in education is never discriminatory. Depending on individual circumstances, forced segregation may infringe the equality rights of children with disabilities. In fact, the Court stated that in general, integrated settings and deinstitutionalization in education are the best approach. However, the Court found that in Emily Eaton's case, the evidence showed that integration had "the counter-productive effect of isolating her, of segregating her in the theoretically integrated setting."

Therefore, the Court held that rather than being denied the benefits of integration, which would have constituted discrimination, it was in Emily's best interests to be placed in a segregated class. Needless to say, Emily's parents strongly disagree with this conclusion.

It also should be pointed out that Emily now is successfully integrated within the Brant County Separate School Board, where her parents moved her after the Special Education Tribunal upheld the public school board's decision to place her in a segregated class. The fact that another school board has successfully integrated Emily illustrates that if school officials have a positive attitude about inclusive education, inclusion works. It also illustrates the subjective nature of the concept of "best interests" and the danger of relying on such a test where equality rights are at stake.

Despite the disappointing outcome of the case for Emily and her family, however, some important principles have emerged from the Court's decision. These will have a broad impact on the equality rights of persons with disabilities generally, and may be helpful to other parents in successfully advocating for the inclusion and accommodation of their children in the regular classroom.

As a starting point, the Court examined the nature of discrimination based on disability. The Court noted that for all prohibited grounds of discrimination, including disability, the purpose of the Charter is to prevent discrimination that occurs when people make stereotypical assumptions about the abilities and capacities of individuals based on their membership in a group.

For example, labeling people inferior because they are of a particular race or gender is discriminatory. In the case of disability, however, the equality rights contained in the Charter have a second objective of insuring that persons with disabilities are accommodated.

In fact, the Court expressly recognized that "it is the failure to make reasonable accommodation, to fine tune society so that its structures and assumptions do not result in the relegation and banishment of disabled persons from participation, which results in discrimination against them."

Therefore, the
Supreme Court has recognized accommodation as a fundamental principle of equality for people with disabilities, and that the failure to accommodate a person with a disability is discriminatory under s. 15 of the Charter.

Looking at education specifically, the Court examined the range of accommodation possibilities for children with disabilities. It concluded that although "integration is the norm of general application because of the benefits it generally provides", segregated settings are sometimes necessary to enable "some disabled pupils access to the learning environment they need in order to have an equal opportunity in education."

Therefore, the Court rejected the argument that there is a constitutional presumption in favour of integration out of fear that this might prevent students from receiving segregated education where required. As examples, the Court referred to schools for the blind, deaf, and learning disabled.

In the Court's words, "integration can be either a benefit or a burden depending on whether the individual can profit from the advantages that integration provides."

However, the Court also held that before it can be determined whether integration is a benefit or burden in a particular case, a child must first have received reasonable accommodation in the regular class.

Thus, the Eaton decision arguably requires that integration with accommodation be taken as the starting point when deciding the educational placement of a child with a disability. The Court stated that "a decision-making body must determine whether the integrated setting can be adapted to meet the special needs of an exceptional child.

Where this is not possible, that is, where aspects of the integrated setting which cannot reasonably be changed interfere with meeting the child's special needs, the principle of accommodation will require a special education placement outside of this setting." According to this analysis, the Charter requires that a child be placed in a regular class with reasonable accommodation, and that he or she can only be segregated if accommodation is not possible.

This approach is not as strong as a "constitutional presumption" in favour of integration, which the Court rejected out of fear that such a presumption may not be compatible with the best interests of the child in every case. However, the Court has made it clear that a school board must accommodate a child with a disability.

The question which arises from this approach is whether parents must prove that accommodation is possible, or whether the school must prove that it is not. The Court did not answer this question. However, well-established human rights principles would clearly place the onus on a school board to show that it cannot reasonably accommodate a child's special needs within an integrated setting.

The Court then turned to the question of how to determine the best interests of a child when parents and educators disagree. It recognized that young children and those unable to communicate their needs or wishes are represented by adults, often their parents. It directed decision-makers to take a "subjective, child centred" approach when determining a child's rights, in a way that "attempts to make equality meaningful from the child's point of view as opposed to that of the adults in his or her life."

This is a form of the "best interests of the child" test which is often used by courts in child protection and custody cases. By using this test to determine the equality rights of children with disabilities, the Court has in effect held that parental views, although a factor in decision making, will not be the deciding factor.
Rather, the decision maker (i.e., the Special Education Tribunal) must look at all of the evidence before it to determine a child's best interests, including the views of parents, educators, and the child herself if she is able to communicate her wishes. This approach is of considerable concern to parents because of its subjective nature.

Historically, expert evidence is relied upon heavily to determine a child's best interests, and educators rather than parents are likely to be the "experts" relied upon by decision makers. Moreover, a best interests test gives a wide discretion to statutory decision makers under the Education Act, such as special education tribunals, to override parental choice.

It therefore is all the more important for parents to insist that all reasonable accommodations are made in order to enable their child to be included in the regular class, since this is an objective standard to which a school board can be held under the Charter.

In conclusion, it is important for parents and advocates to properly understand the Court's decision in Eaton when dealing with school boards. Of the most significance are the following points:

1 Integration of children with disabilities is the norm because of the benefits it generally provides; however, as you will note from the article, integration is not a legal requirement.

2 Failure to accommodate the needs of children with disabilities constitutes discrimination under s. 15 of the Charter.

3 Schools must provide all reasonable accommodations to children with disabilities in the regular classroom.

4 A child should only be segregated if he or she cannot be reasonably accommodated in a regular class. The question of what is reasonable should be determined according to established human rights principles which define reasonable accommodation as being to the point of undue hardship, with the onus on the school to show that segregation is necessary.

5 Ultimately, the deciding factor will be the child's best interests rather than parental choice. However, parents are entitled to insist that schools reasonably accommodate their children to enable their integration into regular classes, and to argue that the best interests of their children require that all reasonable accommodations be provided.

For more information, please contact ARCH at:

(416)482-8255 (voice)
(416)482-1254 (TTY).

The Eaton decision arguably requires that integration with accommodation be taken as the starting point when deciding the educational placement of a child with a disability.

MENTAL HEALTH ACT AMENDMENTS INTRODUCED

On January 29, 1997, the Private Members Bill (Bill 111) amending the Mental Health Act was introduced by Richard Patten, MPP, a member of the Liberal Caucus. The text of this Bill follows this article.

The Bill was given second reading. No decision has been made about whether there will be public committee hearings to consider this Bill.

For more information, please contact ARCH at:

(416)482-8255 (voice)
(416)482-1254 (TTY).
make significant changes to the parts of the Mental Health Act dealing with involuntary commitment and the ability of a physician, justice of the peace, or police officer to force a person to have a psychiatric assessment without their consent or to be involuntarily committed to a psychiatric facility.

Specifically, the proposed amendments would expand the circumstances in which:

- a justice of the peace can issue an order for a psychiatric evaluation;
- a police officer can take a person to a psychiatric facility for an examination; and
- a physician can admit a person to a psychiatric facility as an involuntary patient.

**Proposed changes**

At the present time there is a two part test to determine when a person's right to consent to an assessment or admission to a psychiatric facility. A person's right to consent can be taken away if:

**Part I:**

- the person's behaviour is threatening, violent or causing or attempting to cause harm to someone else

or

- has shown or is lacking the ability to care for themselves; and

**Part II:**

The person has or is believed to have a mental disorder that will likely result in:

- serious bodily harm to themselves or someone else, or
- imminent and serious impairment to themselves.

The amendment does not change the requirements set out in Part I above, but it significantly expands the scope of criteria in Part II. One of the key changes is eliminating the requirement that the harm be imminent.

This means that if the physician or police believes that the person has mental disorder that at some undetermined future time might be physically harmful to a person, the person could be picked up and assessed against their will or committed involuntarily even if the harm was not likely to arise for a number of months or years.

The amendments add an additional criteria to Part II:

- a person can be assessed or committed if it is believed that the mental disorder will lead to substantial mental or physical deterioration of the person that is likely to be alleviated by treatment in a psychiatric facility.

Again, this criteria is very broad and vague. It is difficult to understand, for example, how a police officer or anyone else can determine whether or not someone can be helped in a psychiatric facility since a person who is capable has the right to consent or refuse treatment in the psychiatric facility, even if they are involuntarily committed.

During the second reading debate, the issue of community commitment was also raised. Some concern has been raised that amendments could be introduced to Bill 111 to include community commitment or community treatment orders.

Although no decision has been made about hearings, you can contact Douglas Arnott, Clerk of the Committee to ask that your name be added to the list of those wanting to appear if hearings are held. He can be contacted at:

416-325-3506 (tel)
416-325-3538 (tty)
416-325-3505 (fax).
The Text of Bill 111: Mental Health Amendment Act, 1997

Explanatory Note:

The bill amends the Mental Health Act to ensure that a person who suffers from a mental disorder may be admitted to a psychiatric facility as an involuntary patient if the disorder is likely to result in serious physical impairment or in a substantial physical or mental deterioration of the person.

Currently, the Act provides that a person can only be admitted involuntarily to a psychiatric facility if the mental disorder will likely result in serious bodily harm to the person or another or in a serious and imminent physical impairment of the person.

Bill 111 [1997]: An Act to amend the Mental Health Act

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clauses 15 (1) (e) and (f) of the Mental Health Act are repealed and the following substituted:

   (e) serious bodily harm to another person;
   (f) serious physical impairment of the person; or
   (g) substantial mental or physical deterioration of the person that is likely to be alleviated by treatment in a psychiatric facility.

2. Clauses 16 (1) (e) and (f) of the Act are repealed and the following substituted:

   (e) serious bodily harm to another person;
   (f) serious physical impairment of the person; or
   (g) substantial mental or physical deterioration of the person that is likely to be alleviated by treatment in a psychiatric facility.

3. Clauses 17 (e) and (f) of the Act are repealed and the following substituted:

   (e) serious bodily harm to another person;
   (f) serious physical impairment of the person; or
   (g) substantial mental or physical deterioration of the person that is likely to be alleviated by treatment in a psychiatric facility.

4. (1) Subclauses 20 (1) (c) (ii) and (iii) of the Act are repealed and the following substituted:

   (ii) serious bodily harm to another person,
   (iii) serious physical impairment of the person,
   (iv) substantial mental or physical deterioration of the person,

   (2) Subclauses 20(5)(a)(ii) and (iii) of the Act are repealed and the following substituted:

   (ii) serious bodily harm to another person,
   (iii) serious physical impairment of the patient,
   (iv) substantial mental or physical deterioration of the patient,

5. Clauses 39 (1) (b) and (c) of the Act are repealed and the following substituted:

   (b) serious bodily harm to another person;
   (c) serious physical impairment of the patient;
   (d) substantial mental or physical deterioration of the patient.

Commencement

6. This Act comes into force on the day it receives Royal Assent.

Short title

7. The short title of this Act is the Mental Health Amendment Act, 1997.
Downloadings of Services

On March 5th, leaders from the seniors', women's and disability organizations attended a forum sponsored by ARCH, Ontario Coalition of Senior Citizens' Organizations (OCSCO) and the National Action Committee on the Status of Women (NAC). Speakers included David Crombie, Chair of the government's "Who Does What?" Panel, Jack Carroll, Parliamentary Assistant to the Minister of Community and Social Services representing the government, and municipal politician, Councillor Anne Johnston.

Following the presentations, those present agreed to the following statement. As agreed, it is printed in the form of a petition (below).

ARCH does not take positions on issues of this kind on behalf of its 50 member organizations. Your organization may be taking an independent stance on the issues or may wish to work on the issue through existing coalitions. If, on the other hand, your organization wishes to work with other disability organizations on this issues and feels that ARCH should convene a meeting of groups which share this view, please contact ARCH (416) 482-8255; 482-1254 (TTY) as soon as possible.

WHO DOES WHAT ... TO DISABLED PEOPLE, WOMEN AND SENIORS

We are opposed to the downloading of health, social services and public housing onto municipalities. We demand that "soft services" not be funded out of property taxes. We criticize the government for:

1 re-entangling rather than disentangling these services;

2 using downloading as a mechanism for breaking promises to disabled people, women, and seniors;

3 pocketing savings in health care from hospital closures, then dumping 50% of the resulting community and long-term care costs on municipalities.

4 setting off a race to the bottom, by creating a false crisis about property tax rates; and

5 its failure to involve the people who will be directly affected in whatever planning of downloading which has occurred.

We call on all elected representatives to support the retention of provincial funding of these services. A municipal tax freeze would compound the injustice of downloading.

Name: Date:
Attendant Care & Gender Issues

The question of whether or not attendant care living providers must satisfy the request of clients with respect to the gender of the attendant who will be providing the client's care arises frequently. The Saskatchewan Court of Queen's Bench recently upheld a decision of the Saskatchewan Human Rights Commission which allowed a special care home to include a requirement in its job advertising requiring that an applicant be of a specific gender.

The Saskatchewan Human Rights Code, like the Ontario Human Rights Code, permits the Human Rights Commission to grant an exemption from the prohibition against designating gender as a condition of employment. In 1988, the project that is the subject of the litigation, asked for and received an exemption allowing it to designate one position specifically for a male which gave the project 2.5 male attendants.

In 1991, the project again applied to the Commission to expand the exemption from 2.5 male attendants to 4.5 attendants to accommodate requests by family members and residents with respect to the gender of the attendant. The Commission again granted this request. It was opposed by the Service Employees International Union (SEIU), the union representing the employees of the project.

In 1994, after the exemption was voluntarily reduced to 3.5 male attendants, SEIU asked the Human Rights Commission to reconsider the exemption which was due to expire in 1995 in any case. Because of the expiry date, the Commission treated the request for a reconsideration as a request for an extension of the exemption. At the time of the hearing, the project had 21.05 attendant positions, 3.5 of which were designated male. There were 20 male residents and 30 female residents.

In October 1995, the Commission granted the application for an extension of the exemption until 1997 at the level of 3.5 male attendant. The union requested that the Court review this decision.

The standard of review used by the Court was whether or not the Human Rights Commission's decision to extend the exemption was patently unreasonable based on the facts. In making its decision, the Court balanced two competing provisions of the Saskatchewan Human Rights Code: s.16(1) which prohibits discrimination in employment and s.48 which permits the Commission to grant an exemption where the exemption will either advance the purpose of the Code or where it advances another social policy not in the Code and one that cannot be reached by any method with a less discriminatory impact.

Judge Barclay, writing for the Court, held that the burden of proof for the employer to justify the exemption is to establish, to the satisfaction of the Human Rights Commission, that it is "necessary or advisable" that the exemption be granted. The decision states:

"Where the employer relies on the objective of promoting the inherent dignity and autonomy of the individual, the justification will be met if the exemption sought promotes public decency and privacy."

The Court also looked at the issue of whether the special care homes in question were "private" or "public". They note that from the perspective of employees and taxpayers, they are public institutions. However, they point out that from the perspective of those living in the homes they are like private homes. They expect the same privacy that a person would expect in their own home. The residents do not, as a rule, have an option other than living in what would otherwise be considered a "public" institution.

The Court states clearly that in the balance between the rights of the employees to be protected by the anti-discrimination provisions of the Human Rights Code, and the privacy rights of the residents, the privacy rights should prevail. The Court relies, in part, on the fact that the privacy right for prisoners is accepted and that residents should have the same rights.
FEDERAL GOVERNMENT AND EIGHT PROVINCES AGREE ON AMENDMENTS TO CANADA PENSION PLAN - CPP DISABILITY PENSIONS WILL BE MORE DIFFICULT TO QUALIFY FOR AND REDUCED IN VALUE

On Friday, February 14, 1997, the federal Minister of Finance, the Honourable Paul Martin, tabled draft legislation in the House of Commons to amend the Canada Pension Plan (CPP). These amendments to the CPP were arrived at after a consultation process conducted in 1996 by the federal and provincial governments.

The consultation was set up to respond to widespread concerns that the CPP is in deep financial trouble. The chief actuary of the CPP had prepared a report indicating that, unless fundamental changes were made, the CPP would be out of money within two decades.

The federal government, and the eight provinces which support it, have now agreed on changes to the CPP which will ensure its fiscal stability by both reducing pensions and other benefits and by increasing contributions. The governments of British Columbia and Saskatchewan, however, have refused to support the amendments because of the cutbacks to benefits.

But the amendments can go ahead on a national basis without their support, as the CPP amending formula requires the support of two-thirds of the provinces representing two-thirds of the population. The amendments are scheduled to come into effect on January 1, 1998.

CPP disability pensions have been particularly targeted for reductions and these are discussed in some detail. The other CPP changes reflected in the amendments will be discussed more briefly, as well as some features of the CPP which were not proposed to be changed.

CPP Disability Pensions: A Summary of the Amendments

The Honourable Mr. Martin's announcement contained the following points regarding CPP disability pensions:

1 CPP disability pensions for those currently receiving them will not be reduced a result of the amendments.

Comment:

This is one piece of good news in the announcement. It also would appear that people who become disabled (within the meaning of the legislation) during 1997 will not have reduced disability pensions either, although the Minister's announcement did not say this explicitly (as it did for retirement pensions).

However (as will be discussed) current CPP disability pensioners will eventually have lower retirement pensions and combined survivor/disability pensions because of the amendments, even though their disability pensions themselves are not being reduced.

2 CPP disability pensions will remain fully indexed to inflation.

Comment:

This is a second piece of good news in the
announcement: like all other CPP benefits, full indexation will continue for CPP disability pensions. (But starting in 1998, CPP disability pension test for eligibility will change to "must work and contribute in four of the last* six years", from the current "must work and contribute in two of the last* three years or five of the last* ten years". [*Under the CPP legislation, the "last" number of years in some circumstances may refer to a period ending one or two calendar years before the individual applies, and may refer to part of a year as well.].)

Starting in 1998, the CPP disability pension test for eligibility will change to "must work and contribute in four of the last* six years", from the current "must work and contribute in two of the last* three years or five of the last* ten years".

**Comment:**

This is the major bad news for people with disabilities in the Minister's announcement. The more restrictive contributory eligibility test will make it much more difficult to qualify. A simple example is that no one starting to work for the first time will have any coverage for disability under CPP until they have worked during 4 of 6 years.

But many other individuals will also lose eligibility (although a small number with very specific contribution histories will be eligible under the amendments who were not eligible previously!).

An individual only has to work a very modest amount during a year to be considered as having contributed to the CPP. The 1997 minimum level of contributory earnings (discussed more fully below) is $3,500. This is called the "basic exemption". In past years, the level has also been low - it started at $600 in 1966 and has increased gradually to the present level.

Contributions can only be made from employment or self-employment earnings, not other income. However, contributions can be attributed to individuals, or their contribution periods redefined, through other rules, such as "credit-splitting" related to marriage or spousal relationship breakdown, the "child-rearing drop-out" related to caring for children under 7, contributions to the Quebec Pension Plan, and contributions in other countries with which Canada has a social security agreement.

A discussion of contribution rules is beyond the scope of this article, but interested readers can refer to the article, "Applied 'Too Late' for CPP Disability: You May Now Have A Second Chance" in ARCH•TYPE, Volume 10, Number 4(b), August 1992 at page 20.]

Even though it is relatively "easy" to contribute to the CPP in a year, many people with disabilities applying for CPP, however, have years with no contributions. They may spend a year or two on other benefits (e.g., short-term disability, Employment Insurance) before applying. They may have missed working certain years because of an episodic or recurring disability. Or they may have simply been outside the workforce for other reasons, such as being a student or being a caregiver (of an adult or a child over 7), or just being unemployed.

It is precisely these individuals, already disadvantaged in the employment market, who will be denied their CPP disability pensions by this new eligibility rule.

It is worth emphasizing that this change is being brought about just as fewer and fewer Canadians receive long-term disability (LTD) insurance coverage from their employers, and fewer yet are able to purchase LTD privately. The outcome will be that many thousands of already disadvantaged Canadians will be left with no disability income protection.

Starting in 1998, the earnings-related portion of CPP disability pensions will be calculated according to a new formula (the same formula that will be introduced for all other earnings-related CPP benefits) which will reduce the amount of
the pensions.

This is obviously bad news as well. While the impact on individual disability pensions is not clear, it appears that there will be a reduction in amount of up to $8-$9 per month. The current maximum CPP disability pension is $883.10, based on a flat-rate component of $330.49 which all who qualify get, and an earnings-related portion which may be as high as $552.61, although most pensioners do not qualify for the maximum amount. As can be seen, CPP disability pensions are very modest in amount to begin with, and will now be reduced further.

5 Starting in 1998, the CPP retirement pensions which CPP disability pensioners receive when they turn 65 will be calculated according to a new formula which will reduce their value.

Comment:

The government(s) argue that this change is fair to take account of the fact that a high percentage of non-disabled Canadians take early retirement, while the retirement pensions paid to Canadians with disabilities is based on a retirement age of 65. Nevertheless, this is yet another cutback specifically aimed at an already-impoverished community.

6 Starting in 1998, disability benefits will no longer be paid to estates.

Comment:

This means that, if people with disabilities did not apply for CPP pensions to which they were entitled during their lifetimes, their families and/or beneficiaries will not be able to claim them. (It is not known as of the date of writing if this will affect CPP disability pensioners applied for, but not yet received, at the time of death.)

7 Starting in 1998, persons already receiving CPP early retirement benefits will not be eligible to apply for CPP disability pensions.

Comment:

At present, persons over 60 who receive CPP early retirement pensions have 6 months to apply for CPP disability pensions (if they qualify for the disability pension, the early retirement benefits are returned to CPP). This is advantageous, not only because the CPP disability pension is often higher than the retirement pension, but because it enables the individual to take retirement at age 65 rather than early retirement, which preserves the value of the CPP retirement pension.

Now this opportunity will be removed by the new amendments. This is especially unfair to over-60's in financial hardship, since they are often forced by circumstances to apply for CPP early retirement to make sure that some money will be coming in. They can't afford to wait months and months for the CPP disability application to be processed.

8 Starting in 1998, combined survivor-disability benefits under CPP will be reduced to a ceiling of one maximum disability pension.

Comment:

At present, there is a higher ceiling for individuals who receive both a CPP disability pension and a survivor pension, so this is another cutback.

9 The restrictive administration of CPP disability pensions by Human Resources Development Canada will continue.

Comment:

The Ministry of Finance's informational materials state: "The administration of disability benefits has recently been tightened. Disabilities are now being assessed more closely in keeping
with the legislation, reassessments are being made more frequently to determine if recipients remain disabled, and new appeal procedures that require

In reality, over the past one to two years, Human Resources Development Canada has implemented a number of administrative procedures and guidelines aimed explicitly at reducing the percentage of CPP disability applicants who qualify, and also increasing the pressure on CPP disability pensioners to "leave the system". All of this has occurred without any legislative amendments whatsoever. In particular, HRDC officials have continued to find people ineligible on the basis of limited attempts at return to work or rehabilitation. This counterproductive policy just reinforces the "work disincentive" which has always been a major problem with CPP.

In summary, Canadians with disabilities will see their pensions reduced or eliminated in a good many cases under these new proposals. At the same time, the federal and provincial governments supporting these CPP amendments have taken little substantive action to ensure persons with disabilities meaningful access to the competitive workplace.

And other disability income programs, including provincial social assistance, WCB, LTD insurance, etc. This is a community which is rapidly running out of options.

CPP Retirement Pensions, Survivor Benefits, and Death Benefits

Retirement pensions and survivor benefits for those currently receiving them, or those who will turn 65 during 1997, will not be affected. Starting in 1998, a new formula will be used to calculate the amount of retirement pensions, which will reduce their value by up to $12/month. (As noted in the previous section, there is also another change which will reduce further the retirement pensions of those who previously received CPP disability pensions.)

As of 1998, the earnings-related portion of survivor benefits will be reduced by the same formula (as noted in the previous section, this will also happen to disability benefits).

Like all benefits, retirement pensions and survivor benefits will remain fully indexed. Also, the ages of retirement are unchanged by the amendments - over 60 for early retirement, 65 for normal retirement, and up to 70 for late retirement.

The maximum death benefit has been reduced from a current maximum of $3,850 to a maximum of $2,500, starting in 1998. The death benefit will be frozen at that level.
of benefits, rather than the two years' reserve which presently exists.  

A new investment policy, according to the announcement, provides that the larger reserve fund "will be invested in a diversified portfolio of securities to earn higher returns and help pay for benefits as Canada's population ages".

The government has promised to strengthen accountability under the CPP by providing individual Canadians with annual reports on their CPP pension status "as soon as possible" and by conducting a federal-provincial review of the CPP every three years, rather than every five years.

**Comment:**

The Canada Pension Plan was founded in 1966. It was based on social and economic assumptions which were reasonable at that time - in particular, assumptions regarding the numbers of seniors in Canada and assumptions about an ever-expanding economy.

But long after it was evident that these assumptions no longer applied, and that the contributions to the CPP would have to be increased to ensure the viability of the plan, the federal and provincial governments postponed dealing with the problem. Their "response" was to agree on a long-term contribution schedule which would see the contribution rate rise to over 14% by 2016, but without any immediate increase.

The result of this delay is that the current governments, both federal and provincial, have had to both cut benefits and increase contributions just to save the CPP. Clearly, the current proposals are more realistic than what has been done in the past.

The proposal to freeze the basic exemption will both mean that all CPP participants will pay more, but the percentage increase will be largest for low earners. The level of earnings at which people don't contribute for the year will be frozen. This will mean that, gradually, more people with earnings of $3,500 or slightly more will pay into the CPP than if the amendments had not been arrived at. On the other hand, these "marginal earners" will be slightly more likely to have more contributory years to the CPP, and it will therefore be a bit easier for them to meet the minimum contributory requirements for CPP disability pensions.

Part of the underlying problem is, of course, unrealistic attitudes and expectations on the part of the public. Everyone knows that, as Canada's population ages, unprecedented numbers of Canadians will be receiving CPP retirement pensions for 20, 25, 30 years or more.

As well, it is becoming increasingly difficult for people with disabilities to participate in the work force on an equal footing, so more demand is placed on the disability pension component of CPP. If we want to receive income protection through pensions, however, we have to pay for them. While 10% was determined to be an "acceptable ceiling" after the CPP consultations last year, many industrialized countries have a much higher rate of contributions for their public plans (including the United States).

The political problems which the CPP has faced have arisen from the past underfunding just described, but also from a general concern with the deficit and with levels of taxation. Indeed, critics of the CPP, some of who would wish it to be abolished altogether, refer to the contributions as a "payroll tax", akin to other taxes.

The reality is, however, that the CPP should be examined on its own merits as a public pension plan. We should look especially at the difficulties which low-income and disadvantaged Canadians will have in participating in any private alternatives to the CPP.

In fact, many middle-income Canadians have very limited access to disability insurance and private pensions. LTD insurance in particular is not easily available for small businesses and self-employed people, especially those who have health problems and/or are older. Unlike the CPP, LTD is not portable from job to job, doesn't cover part-time or contract work, and generally provides coverage to many fewer people.
agreed to by the federal government and the eight "supporting" provinces is that the cutbacks have been aimed specifically at this community. CPP disability pensions have been restricted and/or reduced much more than any other benefits. It is those who are most disadvantaged who have the most to lose. The Ministry of Human Resources Development has set up "1-800" numbers to respond to questions about the amendments:

1-800-343-8282 (voice)
1-800-465-7735 (TTY).

Both numbers can be called between 8am and 8pm eastern standard time.

A booklet, "Securing the Canada Pension Plan", as well as the draft legislation, is available from the Department of Finance Distribution Centre. They can be reached at (613) 995-2855. The information (except the draft legislation at the time of writing) is also available on the Internet at: http://www.cpp-rpc.gc.ca/ or through the Department of Finance Web Site.

Information may also be requested through your MP's office.

"Helping Canadians with Disabilities (A Little Bit, Anyway)" Improvements to Disability-Related Tax Claims Announced in the 1997 Federal Budget

In the 1997 Federal Budget, the Minister of Finance, the Honourable Paul Martin, announced several improvements to the disability-related income tax claims which can be made. The purpose of this article is both to explain the announced changes to these tax claims and to suggest further improvements which might be advocated by individuals with disabilities and disability organizations.
particularly through their participation in the Federal Task Force on Disability Issues, a Parliamentary Committee which reported in 1996.

Taxation and its relationship to the costs of disability was one of the main topics dealt with by the Task Force. David Baker and Harry Beatty of ARCH prepared one of the consultants' reports on taxation for the Task Force, dealing with many of the specific items contained in the budget. In this analysis of the changes, reference will be made to the Task Force recommendations and to the specific proposals of the Baker/Beatty report.

The Government of Canada has produced a booklet, "Helping Canadians with Disabilities", which contains a summary of the income tax changes and other measures related to disability in the 1997 Budget. In this booklet, the Budget measures taken are described as part of the Government's response to the Task Force Report.

The statement is made that "These measures reflect the report's two key thrusts in the area of taxation: increasing tax recognition of the costs of disability, and reducing barriers to employment for people with disabilities." While it is good to see the Government recognizing these objectives, it would have been better if the "thrusts" had been more forceful, especially in light of the hundreds of millions of dollars already taken away by the federal Government from Canadians with disabilities, through cuts in transfer payments to the provinces and significantly narrowed eligibility criteria for Canada Pension Plan disability pensions, as well as for the Disability Tax Credit.

When Will the Changes Announced by Finance Minister Martin Become Effective?

The improvements to the disability-related claims announced in the 1997 federal budget are scheduled to be effective for the 1997 taxation year. However, to actually become part of Canada's tax system appropriate amendments must be enacted to the Income Tax Act and the regulations made under it. This should happen later this year.

Disability Tax Credit (Disability Amount)

The sole change announced by the Finance Minister relating to the Disability Tax Credit was that, in future, audiologists as well as physicians and optometrists would be able to sign the Disability Tax Credit certificate (T2201). While this is no doubt helpful to the deaf and hard-of-hearing communities, nothing was done to address the widespread concerns among a wide range of organizations (including those representing deaf and hard-of-hearing persons) about the narrowing of eligibility for the DTC.

People with a wide range of disabilities have been found ineligible for the DTC despite very significant functional limitations. Not only do they lose the value of the DTC claim, they also become ineligible to make attendant care claims, medical expense claims for home renovations, and "higher" levels of child care expenses (where a child over 7 is found ineligible, the allowable level of child care expenses is lower).

The Task Force had recommended a review of eligibility for the DTC in consultation with disability organizations. The Federal Government, however, seems determined to continue to narrow the eligibility criteria.

Medical Expenses

Most of the specific improvements announced by the Honourable Mr. Martin related to medical expenses. Here, while more could have been done, most of the changes are at least pointing in the right direction - towards a fairer approach to meeting the costs of disability.

It must be remembered, however, that the real value of a medical expense claim to a taxpayer, whether related to the taxpayer's own...
disability or that of a dependant, ranges from 0-30%. It is not anything like a full subsidy (which is what the public seems to believe).

The enhancement of the medical expense credit included the following measures:

- 20% of the cost of a van that is adapted (or will be adapted within 6 months), for the transportation of an individual using a wheelchair (to a maximum of $5,000).

**Comment:**

In the past, the Ministers of Finance and of Revenue had refused to consider a credit for items such as vans, which are not designed specifically for persons with disabilities. The consultants' report prepared by ARCH suggested, however, that as a van was at least in part required by a mobility disability, and that a non-disabled person could purchase a much less expensive vehicle, 50% of the cost of the van should be claimable.

- Expenses incurred for moving to accessible housing.

**Comment:**

The ARCH consultants' report had recommended this item - previously, the cost of renovating a home for accessibility had been recognized as a medical expense, but not the costs of moving to an accessible home. The next logical step would be some recognition of the added costs of building a new accessible home.

- Reasonable expenses relating to alterations of the driveway of the principal residence of an individual with a severe and prolonged mobility impairment to facilitate access to a bus.

**Comment:**

This makes sense, but is worded somewhat narrowly - why should this claim be restricted to cases where the vehicle the person needed to use is a bus?

- Sign language interpreter fees

**Comment:**

A step in the right direction, but only very limited support to the deaf community's very critical need for these services.

- An increase in the limit on part-time attendant care expenses from $5,000 to $10,000.

**Comment:**

This is the most important of the improvements made. The significance is that an individual can now claim up to $10,000 annually in attendant care costs for himself/herself or a dependant without losing his/her Disability Tax Credit. While the Task Force had recommended no limit be placed on the attendant care claim, this is certainly a step in the right direction, towards providing more support for individuals and families in the community.

**Addressing Barriers to Employment**

- The $5,000 limit was removed on attendant care paid for by individuals in the workplace - the only limit will
apparently be the individual's earned income.

**Comment:**

There must be a very small number of individuals with disabilities who can afford to spend more than $5,000 annually on attendant care in the workplace. If they do so, however, they should be able to deduct it all, as is proposed here. (If the employer pays for attendant care, it is not a income or a taxable benefit to the employee - the Federal Government dealt with this specifically through an Income Tax Act amendment in 1991.)

There will be a refundable medical expense credit for low-income working Canadians with high medical expenses. The maximum refund created by the credit will be the lesser of $500 and 25% of eligible medical expenses. It will be available to individuals earning at least $2,500, and will be reduced by 5% of net family income over $16,069.

The definition of a preferred beneficiary under a trust will be broadened to include adults who are dependent on others by reason of mental or physical infirmity.

**Comment:**  [None at Present]

**Conclusion**

The Federal Task Force on Disability Issues had recommended that much more be done. Nevertheless, any steps in the right direction are welcome, particularly in the current environment of restraint.

ARCH welcomes your comments and questions with respect to these and other issues. For more information regarding these initiatives, please contact Harry Beatty.
Legal Setback for Insulin Dependent Diabetics

The Federal Court of Appeal unanimously overturned a decision of the Federal Court Trial Division which had ruled that the rule preventing insulin-dependent diabetics (IDDM) from holding private pilot licenses violates the equality section of the Canadian Charter of Human Rights and Freedoms.

The Court rejected the reasoning of the Nova Scotia Supreme Court striking down a similar rule for drivers licenses. It held that whether a particular IDDM diabetic will suffer an incapacitating reaction "therefore the government must be granted deference. The plaintiff had successfully argued below that individual assessments would bring the risks within acceptable limits. The Court of Appeal disagreed.

The case is one in a series which holds that any degree of risk will justify restricting the equality rights of people with disabilities. [The Queen v. Bahlsen, File No. A-455-95, Reasons delivered November 25, 1996].

People with Disabilities: Few Advances in 1996
[Communique, Canadian Human Rights Commission, Mar 20/97]

By an measure of progress, 1996 was a disappointing year for people with disabilities, says the Canadian Human Rights Commission. In its 1996 Annual Report, released by Chief Commissioner Michelle Falardeau-Ramsay, the Commission urged the federal government to introduce a long-awaited amendment to the Canadian Human Rights Act requiring employers and service providers to accommodate the special needs of people with disabilities.

"Court decisions have made it clear that the duty to offset disadvantages to disabled employees or clients is implicit in the Act", the Commission said in its report. "Explicitly enshrining the principle of reasonable accommodation would remove any remaining ambiguity on this issue and make the Act a more positive force for change".

The Commission also expressed concern that fiscal restraint at all levels of government has had a disproportionate effect on people with disabilities. "A few relatively isolated breakthroughs aside, this was for many of them a year of almost complete stagnation and, in some ways, even of losing hard-won ground", the report says. "When public transport, social housing, or hospital budgets are cut, the effects are felt most severely by those most in need of such services".

On employment issues affecting people with disabilities, the Commission reports little progress. "Unless there is a more concerted drive to improve the hiring and retention of persons with disabilities across the Board, the situation seems fated to go from bad to desperate".

Employment Equity legislation has had a limited impact on the job opportunities of people with disabilities in the federally-regulated private sector. Despite a labour force availability of 6.5%, the representation of this group has merely inched up from 1.6% to 2.7% since 1987.

In the federal public service, the share of jobs for disabled people has slipped back and those who are fortunate enough to have found employment are much more likely than other employees to find themselves in the administrative support category.
Other disability issues dealt with in the Annual Report include:

- The federal government has not yet lived up to its commitment to bring all federal property into compliance with up-to-date accessibility standards by 1995.

- The long-standing question of whether travellers with disabilities who need an attendant should be required to pay two fares has yet to be resolved. Although the airlines have somewhat extended the range of flights where a disabled traveller would be eligible for a reduced attendant charge, they are no nearer accepting the principle of "one traveller, one fare".

- The CRTC has required major English television broadcasters to caption all local programming by 1998 and 90% of daytime programming by the time their licenses expire.

- The Health and Safety Regulations of the Canada Labour Code were amended to provide that all safety information, instructions and warnings must be developed in consultation with employees with special needs.

- The Commission has adopted a revised policy on AIDS and HIV and encouraged all employers in federal jurisdiction to establish their own AIDS guidelines.

- As in past years, discrimination on the basis of disability generated the largest single number of complaints in 1996. The CHRC received 459 complaints on the ground of disability, 36% of all complaints received.

For more information, contact Donna Balkan, (613) 943-9120 (v/tty).

Information Service for Vulnerable Adults to be Run by Community Group
[Announcement written by the Ministry of Community and Social Services, Feb.13/97]

A province-wide information service for vulnerable adults and people who support and care for them is expected to be up and running this fall. The information service is part of the province's Initiative for Vulnerable Adults, announced last April by Marilyn Mushinski, Minister of Citizenship, Culture and Recreation.

Vulnerable adults are those who, because of a medical condition, communication problem or age, have difficulty expressing and acting upon their wishes. They and their families, caregivers and advocates will be able to call from anywhere in the province for information on services and resources. The service will include a clearinghouse on educational, training and other resources and a website.

This much-needed service will link the many resources that are out there, making them readily available to vulnerable adults and others who care for them and represent their interests. The Ministry will contract with a community organization or partnership of two or more organizations to develop and maintain the information service.

Organizations interested in bidding for the service may obtain the request for proposal (RFP) in late March from the Open Bidding Service. Information about how to access the RFP will be advertised in the Globe and Mail in late March. For information about the request for proposal and bidding process, please call Ellen Passmore at (416) 314-4741.

One-Year Renewal of Vocational Rehabilitation of Disabled Persons (VRDP) Program [excerpts from an announcement by Human Resources Development Canada, Jan.17/97]

The Honourable Pierre S. Pettigrew, Minister of Human Resources Development, has announced a one-year extension of agreements under the Vocational Rehabilitation of Disabled Persons (VRDP) Program. The Minister made the announcement at a meeting with the provincial and territorial ministers responsible for social services in Toronto on January 13, 1997.
The one-year extension will allow the Government of Canada and the provinces and territories to redesign the long established cost-shared program to more effectively help persons with disabilities enter the labour force. The Government of Canada will contribute its current level of annual VRDP funding, $168 million, to the one-year extension.

A sub-committee of the federal-provincial Working Group on Integrated Income Support for Persons with Disabilities has been formed to develop options for the redesign of the VRDP. It will consider a broad range of concerns in keeping with the Task Force [on Disability Issues Report's] recommendation that the current program be redesigned to be better equip persons with disabilities to enter the mainstream workforce. The sub-committee will consult with the disability community during the process.

[Excerpts from VRDP Background]

VRDP began in 1961 to help persons with disabilities obtain sustainable employment. VRDP is the largest single Government of Canada program specifically designed to help persons with disabilities. It is cost-shared 50-50 with the provinces and territories. The provincial programs shared under VRDP offer aids and services to people with disabilities, regardless of their income. Some 200,000 people with disabilities currently receive support under VRDP. But only 48% of working-age people with disabilities are employed, and many work part-time or have limited attachment to the workforce. Those who are working are usually under-employed.

For more information, contact Ron Yzerman, Federal-Provincial Programs, at (819) 997-5564.

[ARCH●TYPE Note: This is an important issue and we will keep you informed of further developments and their impact on people with disabilities.]

Accommodations in College and University [reprinted from Listen, Canadian Hard of Hearing Association, Vol.5 No.3, Fall/96.

Accessibility is the central issue for hard of hearing persons, and this is no less the case in the post-secondary education environment than in other types of milieus. To promote post-secondary educational access for persons who are hard of hearing, CHHA has embarked on a project with the support of the Employability and Social Partnerships Program of Human Resources Development Canada. The Disability Resource Centre of the University of British Columbia has also been supporting the project, along with representatives from various educational and other institutions.

Through the project, three resource publications have been developed for use by instructors, service providers and students. The guidebooks recognize that the application of technical and support service is not a simple matter because hearing losses vary enormously between individuals, as do the accommodations required. Furthermore, each jurisdiction varies in its provision of accommodations, although there are many similarities between provinces and territories.

The guidebook for students is designed to provide students with information, tips and strategies to enhance their success in a post-secondary environment. Besides describing support services, the student guidebook contains advice on determining a reasonable accommodation for hearing accessibility. Information on how best to approach an instructor and how to maximize the learning environment is included along with the strategies.

The publication for instructors is designed to assist them in providing classroom access for students who are hard of hearing and covers such topics as the nature of hearing impairment, academic accommodations, support services and communication. Tips on use of a microphone for an assistive listening device are included.

The service providers' publication is a binder of collated materials and guidelines. Guidelines [are] available from the CHHA. Feedback on the material and content is welcomed by Ruth Warick, Past President of CHHA, who has been coordinating this project. For more information or to order copies of the materials, please contact CHHA at 205-2435 Holly Lane, Ottawa ON K1V 7P2, (613)526-4718.
It's Tax Time

Again!

1996 Tax Year

Once again, it's tax time! By April 30, 1997, we have to file our returns for the 1996 tax year. Here are answers to some of the most frequent tax questions related to disability which we get at ARCH. While we welcome questions and comments related to the information in this article, because of our limited resources, ARCH is unable to respond in detail to every tax inquiry we receive.

Information Available From Revenue Canada

It is advisable to get written information from Revenue Canada, especially:

- "General Income Tax Guide 96"
- "General Income Tax Forms 96"
- the Disability Tax Credit Certificate (T2201)
- the pamphlet "Tax Information for People with Disabilities" (P149) This pamphlet also contains the T2201 form
- the new information sheet "Disability Tax Credit and You (96-163)
- the Attendant Care Expenses form (T929)
Income tax legislation is very complex and this article is meant only to highlight the areas which apply to taxpayers with a disability, and to taxpayers who have dependants with a disability.

While every effort is made to ensure accuracy, rules are stated generally without reviewing all detailed exceptions. For example, the income tax rules relating to marital breakdown are not cross-referenced in the information to which they might relate. Not all of the rules relating to residency, immigration status, and living outside Canada are covered.

For detailed tax advice, please consult your own tax adviser, one of the many tax publications produced each year, or Revenue Canada.

You should be cautious in relying on verbal advice obtained over the telephone from Revenue Canada, or from any other source, for that matter. It is difficult to deal with all aspects of an individual taxpayer’s situation over the telephone in a few minutes.

The information which follows apply to Ontario taxpayers. Some things are different in other provinces. Information which is specific to Ontario is generally identified as such in the Questions.

for people who pay their own attendant care expenses related to work, occupational training, or research

- the Interpretation Bulletin "Medical Expense and Disability Tax Credits and Attendant Care Expense Deduction" (IT-519R). [You should get the IT-519R dated February 20, 1995 as the previous version was from 1989].

- the Child Tax Benefit Information Package [also available by calling the toll-free Child Tax Benefit Program information line 1-800-387-1193]

- the "Child Care Expenses Information Sheet for 1996" (T1065) and the form "Calculation of Child Care Expenses Deduction for 1996" (T778).

There are other forms and Interpretation Bulletins which may apply to your individual circumstances. In each case, check the date to make sure the information is current. Most of the forms mentioned above, and many others as well,

ARCH regrets that we are unable to supply tax forms and guides. Please contact Revenue Canada to get this material.
had been revised for the 1996 taxation year, so you should be careful to get the most current version of the forms you need.

**Contacting Revenue Canada**

Revenue Canada can be contacted by telephone. Several contact numbers for your local Revenue Canada Tax Services Office (formerly the "District Taxation Office") are listed in the Government of Canada section of the blue pages in your telephone directory.

As the General Information numbers are quite busy, especially during March and April, it is advisable to call specific numbers where possible, such as the number to request forms. Your income tax inquiry, whether general or personal, may be answered by Revenue Canada's automated Tax Information Phone Service (T.I.P.S.). This includes the status of your 1996 refund, information about your GST credit, RRSP contribution limits and general information about other tax topics. See General Information Tax Forms 1996 or the blue pages of your telephone directory for details about T.I.P.S.

Revenue Canada also has forms and other publications available on the Internet at http://www.rc.gc.ca. Because of confidentiality and security issues, however, Revenue Canada does not accept or send client communications over the Internet.

**Accessible Information for Taxpayers with Disabilities**

Tax information and assistance is available from Revenue Canada for taxpayers who require alternative formats. A summary of how to obtain accessible information is provided here - further details are found in the pamphlet "Tax Information for People with Disabilities" referred to above.

People who use a TTY can get tax information toll-free by calling Revenue Canada's bilingual advisory service at 1-800-665-0354. This is a TTY number only. It may be called during regular hours of service (extended to evening hours during the income tax filing season). [Revenue Canada also has toll-free TTY numbers for GST information (1-800-465-5770) and for customs and excise information (1-800-267-0825)].

People who are blind or visually impaired can get tax information toll-free by calling Revenue Canada at 1-800-267-1267 during regular hours of service (Eastern Time). Publications and forms relating to personal income tax returns are available in a variety of alternative formats, including audio cassette, Braille, large-print and computer diskette.

Returns may be completed in Braille, large-print, or on computer diskette. Requests for alternative format tax materials should be made as early as possible.

**Ontario Tax Information**

Provincial tax credits are important to taxpayers. Ontario residents should obtain the "Guide to Ontario Tax Credits & the Ontario Tax Reduction Program" from the provincial Ministry of Finance. The information numbers for the Ministry of Finance are:

- English 1-800-263-7965
- French 1-800-668-5821
- TTY 1-800-263-7776
Changes for the 1996 Taxation Year - What's New?

For the Disability Tax Credit (Disability Amount), Revenue Canada has adopted a policy of reviewing new claims before returns are assessed, to determine whether the taxpayer or dependant is eligible. Once approved, individuals will be able to continue to make this claim, so long as their circumstances do not change. (This will reduce the possibility of a retroactive reassessment but not eliminate it entirely - see Question 12 in this article for a fuller discussion of this new policy.)

The Child Care Expenses rules have been changed so that a claim may now be made for any child under 16 at any time in 1996 (that is, born in 1980 or later). This age has been raised from 14. While this rule does not refer specifically to disability, the practical effect is that a $3,000 claim is now allowed for a 15- or 16-year-old (that is, born in 1980 or 1981) without a physician's certification that the child is "infirm".

For children with disabilities over 7, the rule is still that the higher $5,000 claim is available only if the child qualifies for the Disability Tax Credit (Disability Amount). As well, the form "Calculation of Child Care Expenses Deduction for 1996" now makes it clear that child care expenses can be claimed for children with disabilities over 16 (no maximum age), with the $3,000 claim requiring a physician's opinion that the child is "infirm" and the $5,000 claim requiring the Disability Tax Credit. This is not a change in the law, but it is helpful that Revenue Canada has made this explicit. [See Question 42 for more details.]

The claim referred to as an "Amount for infirm dependant age 18 or older" (made at Line 306 of the income tax return) has been increased to $2,353 from $1,583. As well, the level at which the dependant's net income begins to reduce the claim has been increased to $4,103 from $2,690. Because social assistance payments (such as Family Benefits disability allowances) and Workers' Compensation are included in "net income" for purposes of this calculation, however, this claim is of reduced or no value to many families with "infirm" dependants.

Another change for 1996 is that, in some cases, the "Amount for infirm dependant age 18 or older" at Line 306 may be claimed in part in addition to the "Equivalent-to-Spouse" claim (Line 305). [See Question 22 for a further discussion of the "infirm dependant" claim.]

A number of (modest) improvements to disability-related income tax claims were announced by the federal Minister of Finance, the Honourable Paul Martin, in his 1997 budget. As these changes will not affect 1996 returns, they will not be included or discussed in this article. They will however affect expenses incurred in 1997. For an analysis, please see "Helping Canadians with Disabilities (A Little Bit, Anyway)" in this issue of ARCH TYPE.

A number of (modest) improvements to disability-related income tax claims were announced by the federal Minister of Finance, the Honourable Paul Martin, in his 1997 budget. As these changes will not affect 1996 returns, they will not be included or discussed in this article. They will however affect expenses incurred in 1997. For an analysis, please see "Helping Canadians with Disabilities (A Little Bit, Anyway)" in this issue of ARCH TYPE.

NOTE

While it is not a disability-specific item, it is worth noting that the education amount (Line 322) has been raised to $100 monthly from $80, and the transfer limit for tuition fees and education amount transferred from a child or grandchild (Line 324) or a spouse (Line 326) has been increased to $5,000 from $4,000. [See Question 40 for information on how part-time as well as full-time students with disabilities can claim the education amount, either on their own behalf or transferred to a parent, grandparent, or spouse.]

10 TAX TIPS TO REMEMBER

TIP #1

File a Return to Claim Refundable Credits Even If You Have No Taxable Income. But Don't Pay Tax on Social Assistance or Workers' Compensation.

Many people with disabilities who receive non-taxable income, such as social assistance or...
Workers' Compensation, do not file returns. This is usually a mistake, because by failing to file, they give up their entitlement to both federal and provincial refundable credits and other financial benefits obtainable only by filing an income tax return. (Refundable credits mean that people can get money back even if they pay or do not owe income tax).

One important federal refundable credit is the GST (Goods and Services Act) credit (applied for through the income tax return but paid separately). Almost every low-income Canadian at least 19 years old, or younger if married or a parent, can at least get the basic GST credit (maximum value is $199 for a single person) for 1996. The credit is increased where there is a spouse or dependent children. Taxpayers with modest incomes may be eligible as well. Be sure to complete Step 2 on your income tax form to claim the GST credit if you think you might qualify.

Parents and other primary caregivers must complete an income tax return to obtain the refundable Child Tax Benefit (CTB) from the federal government.

The Child Tax Benefit provides tax-free monthly payments on an income-tested basis to help with the cost of raising children under 18. Although in most cases the mother of the child is considered to be the primary caregiver and eligible for the CTB, where the spouses cohabit, both must file a tax return to claim the CTB. There is a separate application and information package for the Handicapped Children's Benefit Program of the Ontario Ministry of Community and Social Services is also income-tested and based on the parents' previous year's tax return(s).

Yet another reason for those with low self-employment income to file is to ensure that you make your CPP contributions for the year. Not only are you required by law to do so if you earned more than the basic CPP exempt amount of $3,500 in 1996, but if you fail to make your CPP contributions for a year, this may affect your future entitlement to a CPP disability pension, as well as the amount of your retirement pension.

For payments like social assistance and the CTB which may be obtained from your Tax Services Office or by calling a Revenue Canada toll-free information number: 1-800-387-1193.

The Ontario Government offers both sales tax and property tax refundable credits which you must file an income tax return to claim. Like the GST credit, the sales tax credit is available to almost every low income adult in Ontario. The property tax credit is available to renters as well as homeowners.

Because of these refundable credits, all low-income people should complete an income tax return, or have one completed on their behalf. This requires getting a social insurance number from your local Human Resources Development Canada Centre (Employment) if you don't have one.

It is important to file an income tax return for other purposes as well. The provincial Trillium Drug Program (for people with high drug costs) is income-tested and based on your, and other family members', tax return(s). Your entitlement for the year starting April 1, 1997 will be based on your 1996 tax return.

The Trillium Drug Program will allow you to document your income otherwise than through a tax return, but filing a return is the main way of proving your income. For more information about the Trillium Drug Plan, contact the Drugs Program Branch, Ontario Ministry of Health, or your local pharmacy.

Workers' Compensation, you should receive a T5007 form from the government or WCB to attach to your tax return. This money is not taxable. However, it has to be taken into account in calculating your tax credits and in determining whether someone can make certain claims for you as a dependant.

The tax return requires you to report Workers' Compensation payments (at Line 144) and social assistance payments (at Line 145) in accordance with the T5007 slip.

These amounts are to be deducted at Line 250. Be sure to make the deduction of these amounts at Line 250, or else you will wind up
paying tax on them.

**TIP #2**

**Consider Filing the T1 General Return (found in your "General Income Tax Forms 96") Rather Than A Special Return**

Many taxpayers receive the T1 Special Return from Revenue Canada, and there are even simpler versions to fill out - the T1S- A, B and C Special forms. While these forms are convenient, there are some disability-related items (and many other items as well) that can only be claimed using the T1 General Return.

These include attendant care expenses for work, occupational training and research, and the transfer of certain claims - including the Disability Tax Credit - to and from your spouse. If you think you may be eligible to make this claim, get the T1 General Form from the Post Office or your Tax Services Office.

**TIP #3**

**Consider Whether You, Your Spouse or a Dependant Qualifies for the Disability Tax Credit (Disability Amount)**

If you, your spouse, or a dependant has a significant disability, consider whether you can claim the Disability Tax Credit (also called the DTC). A taxpayer with a disability makes the claim at Line 316. (The conditions under which a claim may be made for a spouse or other dependant with a disability are discussed under Tip #5.).

If this claim was made and accepted for 1995, you do not have to file another T2201 for 1996 unless the previous form said that the disability would end in 1995, or a new form is requested by Revenue Canada.

To make the claim, obtain form T2201, "Disability Tax Credit Certificate", from your Tax Services Office (a T2201 form is included as part of the Revenue Canada booklet "Tax Information for People with Disabilities"). The T2201 form must be signed by a medical doctor, or an optometrist in the case of vision impairments.

There are two conditions which must be met for you or your spouse or dependant to claim the disability amount for 1996:

1. you (or your spouse or dependant) had a severe mental or physical impairment in 1996, which caused you (or your spouse or dependant) to be markedly restricted in basic activities of daily living; and

Under the revised T2201 a marked restriction in activities of daily living means, for example, that the person is:

- "legally" blind
- unable to feed and dress himself/herself
- unable to speak to or hear another person whom he or she knows well in a quiet setting
- unable to walk more than 50 metres on level ground (the last test was made more difficult to meet starting with the 1994 version of the T2201 - it was 100 meters in 1993!).

Revenue Canada has applied these tests since eligibility for the disability amount was broadened in 1985. However, in 1991, the Income Tax Act was amended to give a new, stricter interpretation of these tests the force of law. In 1993, and again for 1994, the T2201 form was revised to include more specific criteria, and this has made the DTC even more difficult to get now for those who have not previously qualified. (The 1996 DTC form is virtually the same as the 1994 and 1995 forms).
Inability to control bowel and bladder functions may be another ground of eligibility. Most subjective is the description of mental disability, where the doctor is asked whether his or her patient can "think, perceive and remember". A side comment, however, gives as an example whether the person "can manage personal affairs or do personal care without supervision" - this provides a bit clearer test.

In every case it is emphasized on the T2201 that the marked restriction test is to be applied having regard to whether the person can do the activities in question "with the use of appropriate aids, devices, medication, or therapy". The vision test is to be applied assuming the person has corrective lenses, and the walking, speaking, hearing and feeding and dressing tests also refer to the use of appropriate aids.

The test for elimination (incontinence) gives as examples that a person with an "uncomplicated ostomy", or who uses a catheter, is not necessarily eligible for these reasons. And the test for mental functions is to be applied considering the possible effects of medication or therapy.

Because Revenue Canada is continuing to "tighten up" the eligibility criteria, it is more important than ever that the physician (or optometrist) complete the T2201 form very carefully, documenting all conditions leading to a severe disability.

Inability to work, or receipt of other disability benefits such as Workers' Compensation, Long-Term Disability Insurance or Canada Pension Plan disability, does not make someone eligible who does not meet the two eligibility conditions. While inability to work does not necessarily imply eligibility for the Disability Tax Credit, someone who is working can qualify, so long as their disability is "severe" and "prolonged" according to the Revenue Canada definitions.

A Disability Tax Credit claim certified by the person's physician or optometrist is not necessarily accepted by Revenue Canada. It may be reviewed by the medical advisors at Human Resources Development Canada, and the physician or optometrist is often contacted for more information.

In the past, taxpayers often had DTC claims apparently accepted in the first year, only to be reviewed later and rejected retroactively for up to three years. Understandably, this caused major hardships to taxpayers with disabilities and those who have family members with disabilities qualified for the DTC, and would cancel the retroactive reassessment (back further than the most recent taxation year) in most cases. A letter to the Chief of Appeals at the local Tax Services Office will initiate this review. [See Question 12 for a fuller discussion.]

There are no age limits applied to eligibility for the disability amount. A child born in 1996 is eligible if his or her disability meets the two conditions. For children under three, however, eligibility is to be assessed with regard to the child's developmental progress and prognosis. Seniors are also eligible if their disabilities meet the two conditions.

Taxpayers with disabilities who themselves qualify for the Disability Tax Credit make this claim at Line 316. (Making this claim for a spouse or a dependant is discussed in Tip #5). The amount that you see at Line 316 is $4,233, but like
all non-refundable tax credits, it is converted to a 17% federal tax credit, so the actual federal tax saving is $720.

However, there is an impact on provincial tax and surtax payable too, so the real value of the disability amount is likely to be $1100-$1300, depending on the province you live in and whether you are in a high income group.

It's a non-refundable credit, so you must have paid or owe tax, either by deduction from your paycheques or otherwise, in order to benefit from the Disability Tax Credit.

As explained in Tip #5, if you can't benefit from the credit yourself because you pay no tax, perhaps it can be transferred to a supporting person who can benefit.

**TIP #4**

**Consider Claiming a Non-Refundable Tax Credit for a Spouse or Dependant with a Disability**

Personal amount claims for spouses and other dependants ("dependant" means someone supported at least partly by the taxpayer during 1996) are covered at Lines 303, 305 and 306 on the income tax return. These claims, like the Disability Tax Credit, are non-refundable and the amounts listed are converted to 17% federal tax credits. The rules are complex and must be reviewed carefully. It is not possible here to review all of the implications of marriage or spousal breakdown and/or support provisions.

**Dependent Children under 18**

There is no longer (as of 1993 when the Child Tax Benefit system was introduced) an income tax credit for dependent children under 18. (However, a dependent child under 18 may still qualify for the equivalent-to-spouse credit, discussed next, and for transfer of the Disability Tax Credit, discussed in Tip #5.)

**Equivalent-to-Spouse Claim**

If you were single, divorced, separated, or widowed at any time in 1996, and supported a relative at that time, consider whether you can claim the "equivalent-to-spouse amount" at Line 305 using Schedule 5. The rules are complicated, but the basic principle is that the "equivalent-to-spouse" claim replaces the spousal claim for those without a spouse. You cannot make this claim if you have a spouse.

Your child or another relative may be claimed as equivalent-to-spouse if under 18, or if over 18 but "mentally or physically "infirm". "Infirmity" requires a doctor's certificate but it is a more general concept than eligibility for the Disability Tax Credit. Revenue Canada's basic interpretation of "infirm" is that it refers to an inability to be gainfully employed. In addition, your parent or grandparent may be claimed at Line
305 if living with and supported by you, **whether or not** they are disabled or "infirm".

This claim can only be made for a relative who was living with you (Revenue Canada considers this to include a dependant who was away from home attending school so long as the dependant lived with you when not at school), for at least part of the year, in a home that you maintained, and if no one else in the household is claiming an equivalent-to-spouse amount for anyone.

Except for your child, the claim can only be made for a relative residing in Canada (and your child must reside with you even if living outside Canada). The net income of the dependant, including social assistance and Workers' Compensation income, is taken into account in calculating this claim.

**Claim for "Infirm" Dependants 18 or Over**

Where a relative, including your child, was over 18 for at least part of 1996 (i.e., born in 1978 or earlier), and is "mentally or physically infirm", an "additional personal amount" or credit may be claimed at Line 306 using Schedule 6. To qualify, the relative must be your or your spouse's child, grandchild, parent, grandparent, brother, sister, aunt, uncle, niece or nephew.

Except for children or grandchildren, they must have lived in Canada at some time during 1996. Their net income (including social assistance and Workers' Compensation income) is taken into account in calculating this claim. This

A key point is that the calculation for transfer of the DTC is based on the "taxable income" of the dependent spouse, child or other relative (as opposed to "net income" for the calculation of personal amount claims). Therefore, social assistance, Workers' Compensation and similar payments are not taken into account in calculating the transferable amount of the DTC.

This means that a transfer of the DTC may be available, even where no personal amount for the dependant may be claimed. On the other hand, sometimes it works the other way, where a personal amount may be claimed with respect to a dependant with a disability, but there is no transfer of the DTC.

For the 1996 taxation year, the value of the "infirm dependants" claim has been increased, and the level at which the dependant's net income is taken into account has also been raised. Another change for 1996 is that, in some cases, it is now possible to **combine** an equivalent-to-spouse claim at Line 305 with a (partial) claim with respect to the same individual at Line 306. [See the General Income Tax Guide 96, Line 306, and Question 22 for more information.]

**TIP #5**

**Consider applying for the Disability Tax Credit (Disability Amount) for a Family Member**

Medical eligibility for the DTC was discussed above in Tip #3. We have just discussed claiming personal amounts for spouses or disabled dependants in Tip #4.

It is important to distinguish between claiming a personal amount for a relative and obtaining a transfer of his or her (unused) Disability Tax Credit. You may be able to do one but not the other, with respect to a spouse, child, or other relative with a disability.

To obtain a transfer of the DTC, the relative must have been a resident in Canada at some time in 1996 (regardless of family relationship).

**Transfers Between Spouses**

If your spouse is disabled and does not need to use all of the Disability Tax Credit himself or herself to reduce his or her own tax payable, it can be transferred to you at Line 326 using Schedule 2.

**Transfers from Children or Grandchildren**
If your (or your spouse's) dependent child or grandchild is disabled and does not need to use all of the Disability Tax Credit himself or herself to reduce his or her own tax payable (this includes children under 18, as we shall see), it can be transferred to you at Line 318 (there is no Schedule for this claim).

"Dependent" generally means at least partly dependent upon you for "support". However, the terms "dependent" and "support" are not precisely defined within the Income Tax Act. There are four classes of your (or your spouse's) children and grandchildren from whom you may obtain this transfer:

- children or grandchildren under 18 throughout 1996 (i.e., born in 1979 or later)

- a child or grandchild 18 or older in 1996 (i.e., born in 1978 or earlier) for whom you claimed an equivalent-to-spouse amount at Line 305

- children or grandchildren 18 or older in 1996 (i.e., born in 1978 or earlier) for whom you claimed an "amount for infirm dependants" at Line 306

Even if the parent or grandparent did not live with you, you can usually get a transfer of the DTC from them if they were dependent on you because of mental or physical infirmity. The test is whether you either claimed an "amount for infirm dependants" for them at Line 306 or could have claimed this amount if they had had no income during 1996.

Transfers from Other Relatives

A transfer of the DTC may be obtained (again at Line 318) from relatives other than your or your spouse's children, grandchildren, parents or grandparents only if you actually claimed the equivalent-to-spouse amount for them at Line 305

- children or grandchild ren 18 or older in 1996 (i.e., born in 1978 or earlier) for whom you did not make a claim at Line 305 or 306, but could have made one of these claims if they had no income and (with respect to Line 305) you had not had a spouse

The last class is not easy to understand, but the net result is that, subject to a few restrictions soon to be covered, you can usually claim a transfer of the unused Disability Tax Credit from a child or grandchild whom you at least partially support, regardless of their age.

Transfers from Parents or Grandparents

In almost every case, you can get a transfer of the unused portion of the DTC, at Line 318, from your or your spouse's parent or grandparent who lived with you in 1996 in a home that you maintained. You can make this claim if you claimed the equivalent-to-spouse amount for the parent or grandparent at Line 305, or could have made this claim if they had no income and you had not had a spouse.

(Not if you could have claimed them had circumstances been different).

Restrictions

You cannot obtain a transfer of the DTC at Line 318 for any of the classes of relatives just discussed if:

- The relative is your child for whom you are entitled to deduct child support payments (but there is an exception to this rule for the first year)

- You, or anyone else, makes a medical expenses claim for the relative of more
than $5,000 for attendant care ($10,000 in the year of death) or for care in a nursing home. In this case, you must choose between limiting the attendant care or nursing home medical expenses claim to $5000 or giving up the Disability Tax Credit.

If the relative's spouse claims any personal credit (other than medical expenses) with respect to the relative.

If there are two or more "supporting persons" of a dependant with a disability, they may divide the claim, but the total amount claimed cannot be more than one "supporting person" would have claimed.

**TIP #6**

Consider Whether Disability Items Are Claimable as Medical Expenses

At Line 330, you may claim "medical expenses". There is no longer a Schedule for medical expenses. However, you still must keep your receipts and submit them with your tax return. The items that may be claimed are specifically listed in the Income Tax Act and Regulations. These include:

- fees to health professionals
- laboratory examinations and tests
- dental services
- hospital fees
- prescription medications
- other health-related items.

They also include many payments which you make related to your disability or your spouse's or dependant's disability. A wide range of adaptive devices and equipment is included, but so are other items. Some examples are:

- home renovations for accessibility
- communication devices for persons who are deaf or blind
- incontinence products
- expenses for guide and hearing-ear dogs
- payments to full-time, part-time or temporary attendants (see Tip #7)
- fees for programs specially adapted to disability
- premiums paid to private (not government) health insurance plans (but not items paid for by these plans)
- some travelling expenses to obtain medical treatment.

Some items require a doctor's prescription. Others require a certificate from a "medical practitioner", which includes many health professionals other than doctors. In almost every case, it will be useful to have a clear supporting letter from the individual's doctor or other qualified health professional explaining why the item is required.

Medical expenses can be claimed that were paid for yourself or your spouse. They can also be claimed for a child or grandchild of you or your spouse who was dependent upon you for support in 1996.

Being "dependent upon you for support" does not require that you have claimed a personal amount for them at Lines 305 or 306. So, for example, you could make the claim for medical expenses incurred on behalf of a non-disabled son or daughter over 18 who was dependent on you for support, as well as for a disabled son or daughter.

You can also claim medical expenses for you, or your spouse's, parent, grandparent, brother, sister, uncle, aunt, niece or nephew, provided that they lived in Canada during 1996 and were dependent upon you for support. (A spouse, child or grandchild need not have lived in Canada.)

However, if you claim medical expenses
for a dependant other than a spouse, whose net income in 1996 was more than $6,456, there is a "medical expenses adjustment" at Line 331 which will reduce your claim. (Remember that "net income" includes non-taxable amounts such as social assistance and Workers' Compensation).

Since the "medical expenses adjustment" is subtracted from your medical expenses claim, it is not to your advantage to claim medical expenses for a dependant (or dependants) for whom the "medical expenses adjustment" is greater than the medical expenses claimed.

There is a reduction of 3% of your net income from a medical expense claim (to a maximum of $1,614). Together with the conversion to a 17% non-refundable federal credit, this means that a claim for medical expenses falls far short of full reimbursement. It may amount at most to a 10-30% reimbursement of what actually was spent, and in many cases, the claim is reduced to 0%. The 3%/$1,614 reduction leads to consideration of some "strategies" around medical expenses.

One strategy involves deciding which spouse should pay medical expenses. You or your spouse may claim medical expenses for either of you or your dependants, regardless of who actually paid them.

There may be an advantage to the lower income spouse making the medical expense claim, as his or her net income is less, and so the 3% net income reduction applied to medical expenses has a lesser impact. But remember that it is a non-refundable credit, so the lower income spouse must have sufficient tax payable in order to take advantage of the credit.

In some circumstances, it is better not to claim your 1996 expenses on the return you are filing now, but to "save" them for 1997 by choosing a 12-month period different from the calendar year, as you are permitted to do - see Line 330 in the General Income Tax Guide 96. This is because it is better to have the 3% net income reduction applied in only one taxation year rather than in two.

You cannot claim as medical expenses payments for which you will be reimbursed by a government plan or private insurer (although, as noted above, the insurance premiums paid to a private insurer, but not to a government plan, are claimable). If the reimbursement is only partial, however, you may claim the amount which you actually pay yourself and are not reimbursed for.

If your employer reimburses you for items included under medical expenses, and includes the amount of the reimbursement on your T4 form, you may claim these amounts at Line 330.

For details regarding medical expenses, you should obtain Interpretation Bulletin IT-519R, "Medical Expense and Disability Tax Credits and Attendant Care Expense Deduction". (The IT-519R is dated February 20, 1995).

**TIP #7**

**Claim Attendant Care Expenses at Work and at Home**

make this claim, not a "supporting person") can be claimed up to a maximum of $5,000 at Line 215 of your return. Obtain Form T929, Attendant Care Expenses, from Revenue Canada to make this claim.

Where the employer pays the attendant care expenses through reimbursement or through an allowance, this is a tax-free employee benefit which should not be included in your T4 and which is not income to be reported for tax purposes.

Second, there is also a permitted claim of up to $5,000 for part-time or temporary attendant
care at home, which may be made by a taxpayer with a disability or a "supporting person". The maximum claim is increased to $10,000 in the year of death. This is claimed as a medical expense credit at Line 330. (See Tip #6 for more information about medical expense claims).

Finally, there is a claim for a full-time attendant (or care in a nursing home) which is also made as a medical expense credit claim at Line 330, and which may be claimed either by a taxpayer with a disability or by a "supporting person". The real meaning attached to "full-time" is simply that the annual cost is more than $5,000 (or $10,000 in the year of death).

There are a number of rules regarding how attendant care claims can be combined with other claims and credits. The starting point is that only one attendant care claim may be made for any individual.

The attendant care expenses at work claim, made at Line 215, may be combined with a claim for the DTC. Similarly, the part-time or temporary attendant care claim (to a maximum of $5,000, or $10,000 in the year of death) at Line 330 may be combined with a claim for the DTC. But the full-time attendant care (or care in a nursing home) claim cannot be combined with a claim for the DTC (no matter who makes the DTC claim).

You cannot claim both child care expenses at Line 214 and attendant care expenses at Line 330 with respect to the same child. You can choose the claim which is most advantageous to you. Both part-time or temporary ($5,000) claims can only be made for attendant care provided in Canada. However, a claim for a full-time attendant, or care in a nursing home is not restricted to care provided in Canada.

TIP #8

Claim the Education Amount If You Are a Part-Time or Full-Time Student with a Disability

At Line 322, post-secondary students can claim an education amount of $100/month for each month they were enrolled in a qualifying educational program. This is a non-refundable credit. If you cannot use the credit yourself to reduce tax payable, under certain circumstances it may be transferred to your or your spouse's parent and grandparent, or to your spouse.

While the credit is ordinarily for full-time students, a claim may also be made by part-time students who can only attend part-time because of a "mental or physical impairment". Form T2202, the "Education Credit Certificate for Full and Part-Time Students", must be completed to make this claim.

Part 2, "Statement by Student", has a box for students to check if they qualify for the Disability Tax Credit (Form T2201). Form T2202 also has a Part 3, "Certification by Physician for Part-Time Studies", which can be completed by medical doctors (or optometrists) for students who do not qualify for the T2201 but who still are limited to part-time studies by a "mental or physical impairment".

Ordinarily, the maximum child care expenses claim (Line 214) is $5,000 for a child 6 and under, $3,000 for a child 7 to 16, and nothing for a child over 16. (Note: The "upper" age of 16 has been established for the 1996 taxation year - it was 14 for previous years).

However, if a Disability Tax Credit Certificate (T2201) is submitted for the child, the maximum claim is $5,000 regardless of age. If a child over 16 has a "mental or physical infirmity"
(see Tip #4 above for a discussion of "infirmity"), then a maximum claim of $3,000 can be made even if the child does not qualify for the T2201.

The usual rule is that the parent (or "supporting person") with the lower net income must claim child care expenses. However, if one parent is disabled and unable to care for the children as a result, then the higher income spouse may make the claim. The claims are limited on a weekly basis to $150 where the child is 6 and under or qualifies for the Disability Tax Credit, and $90 where the child is 7 to 16 or "mentally or physically infirm", regardless of age.

Obtain Form T778, "Calculation of Child Care Expenses Deduction for 1996", and Form T1065, the "Child Care Expenses Sheet for 1996", for more information.

**TIP #10**

**You Can Still Make Claims Back to the 1985 Taxation Year**

If you have not made a claim, such as for the Disability Tax Credit or for medical expenses, under the existing income tax rules for previous years, you could still go back as far as the 1985 taxation year. The General Income Tax Guide 96 explains (on page 7) how you can request a refund back to your 1985 tax return.

You can write to Revenue Canada giving your social insurance number, the telephone number where you can be reached during the day, the details of the changes you believe should be made, the years you are applying for and the supporting documentation (such as the T2201 if the claim is for the Disability Tax Credit - in this case, it is important that the physician indicate clearly the date the disability began). Revenue Canada also has a form, the T1-ADJ or "T1 Adjustment Request", which can be used for this purpose.

If you have already filed tax returns for the years in question, you should not file entire new returns. It is often advisable to speak to your Tax Services Office before writing. Before making an extended retroactive claim (e.g., for several years of the DTC), you should consider how strong the claim is and how well it can be documented. Not surprisingly, it appears that Revenue Canada scrutinizes claims for several years' retroactive entitlement very closely.

---

Answers to Your Specific Tax Questions for the 1996 Taxation Year

**FILING A RETURN**

1. **I received the T1 Special Tax Guide and return from Revenue Canada in the mail. Should I just use it, or might I need another guide or form?**

You can be sure of considering all claims by using the T1 General Return rather than the T1 Special Return (or the versions of the T1 Special called the "T1S" - "A", "B" and "C" - which require no calculations). The T1 General (called this year "General Income Tax Forms 96") is available at any Post Office or Tax Services Office.

2. **I am a person with a disability receiving Family Benefits. Should I file an income tax return? I understand that social assistance**
payments such as Family Benefits or General Welfare Assistance are not taxable.

Also, I have a friend receiving Workers’ Compensation, which isn’t taxable either. Should she file a return?

Social assistance payments, including Family Benefits and General Welfare Assistance, are not taxable. Workers’ Compensation is not taxable either. But if you are receiving these benefits, you should still file an income tax return, because this is the only way you can claim certain refundable tax credits.

A refundable tax credit means you can get money back from the government even if you don’t pay or owe any tax. As well, there are other government programs, both federal and provincial, which are income-tested and which require you (and your spouse) to file income tax returns to qualify. The main refundable credits and benefits for the 1996 tax year are:

- the federal Goods and Services Tax (GST) credit (which will be sent through separate quarterly cheques, although it is applied for using the income tax return) - the 1996 maximum is $199, divided into four quarterly payments (if over $100 - if less, it is paid in one lump sum) for a single person (an increased amount is available for families).

- Ontario provincial property and sales tax credits [the sales tax credit for which almost every low- and modest-income Ontario resident qualifies has a maximum value of $100 to a single person in 1996 (increased if there is a spouse and/or dependent children)].

Again, since these credits are refundable, you can get money back even though you pay no income tax. As discussed in Questions 3 and 20-24, even though social assistance payments and Workers’ Compensation payments are not taxable, they are taken into account in determining eligibility for most credits - but not the DTC - and in determining whether you are someone's dependant.

Receiving these credits will not reduce your Family Benefits or General Welfare Assistance entitlement. They don't come off these allowances.

There are also a number of important federal and provincial programs which are income-tested and which require that you (and your spouse) file an income tax return in order to qualify.

The federal Child Tax Benefit (CTB) provides tax-free monthly payments to help with the cost of raising children under the age of 18. The benefit is paid on the child's behalf to the parent, or another person who is the child's primary caregiver. In most cases, the mother of the child is considered to be the primary caregiver.

To receive the CTB, an application must be submitted, using a form from Revenue Canada. Both the applicant and the cohabiting spouse must file income tax returns. For more information, you can contact the CTB Program toll-free number: 1-800-387-1193.

People with moderate or high incomes are eligible for the Trillium Drug Program as well as lower income people, but there is a significant deductible (amount you must pay for drugs out of your own pocket) which increases with family income. Since this is an income-tested program, all adult family members should file income tax returns for 1996 to document their incomes.
The Trillium Drug Program runs each year from April 1 to March 31 of the following year. You should be careful to save all your drug receipts to apply to Trillium. Application forms and an information booklet are available from the Ontario Ministry of Health or your local pharmacy. If you cannot get an application from your local pharmacy or have questions about the program, contact the Drugs Program Branch, Ontario Ministry of Health at: 326-1558 (Toronto), 1-800-575-5386 (toll-free outside Toronto), 1-800-387-5559 (TTY).

The Handicapped Children's Benefits program of the Ontario Ministry of Community and Social Services (MCSS) is also income-tested, so parents should file income tax returns in order to document their income for 1996. Contact your local MCSS office for more information about this program.

Self-employed persons who earned more than $3,500 in 1996 are required to file an income tax return to make their Canada Pension Plan (CPP) contributions ($3,500 is the basic CPP exemption for 1996). The calculation is made on Schedule 8 and reported on the income tax return at Line 310.

People with disabilities are strongly advised to file returns and pay into CPP, not only because it is a legal requirement, but also because contributing to the CPP plan in a particular year may be important in connection with their future eligibility for a CPP disability pension, should their disability progress to where they are unable to be in substantially gainful employment. CPP contributions also raise an individual's future CPP retirement pension.

3. I receive Family Benefits as a person with a disability. Recently, I received a "T5007" information slip in the mail from the Ministry of Community and Social Services.

What am I supposed to do with it? Does it mean I will be taxed on it? Why is the amount on the T5007 slip less than I actually received from Family Benefits in 1996?

The federal government requires the provinces to issue tax information slips (T5007's) for:

- social assistance payments (Family Benefits, General Welfare Assistance)
- Workers' Compensation
- GAINS-A for seniors

These payments are not taxable. However, they are reported on the income tax return. Workers' Compensation payments are reported at Line 144 and social assistance payments (Family Benefits and General Welfare) at Line 145. They are included in total income (Line 150) and net income (Line 236). It is essential, however, to note that these amounts are then deducted at Line 250. Because they are deducted at Line 250, they are not included in your taxable income, and you do not pay tax on them.

Because social assistance and Workers' Compensation are included in your net income they affect the following benefits and calculations:

- GST credit
- Child Tax Benefit

Note that you do not include the amounts shown on the T5007 as income when you claim the unused part of a family member's Disability Tax Credit (Disability Amount), either at Line 318 for a family member other than your spouse, or at Line 326 (using Schedule 2) for your spouse. The reason for this is that "taxable income" rather than "net income" is used at Lines 318 and 326 in
considering transferability of the Disability Tax Credit. (See Questions 20 and 22 for an elaboration).

The reason the amount on the T2201 is less than the Family Benefits actually received is that the provincial government has negotiated the exclusion of certain social assistance items (including the "flat-rate disability component of Family Benefits" or "GAINS-D Amount" from what is considered to be "income" for tax purposes. For questions about your T2201, contact your Family Benefits or General Welfare Assistance worker.

**TAXABLE & NON-TAXABLE DISABILITY BENEFITS**

4. I receive a Canada Pension Plan disability pension and long-term disability (LTD) from an insurance plan paid for by my employer. Because I am disabled, my 7-year-old daughter receives a disabled contributor's child benefit from CPP as well. Are all these amounts taxable?

Both payments to you are taxable. CPP disability payments must be reported at Line 114 of your return. A T4A(P) information slip will be sent to you. As explained in the "General Income Tax Guide 96", CPP disability benefits on the information slip are also reported on Line 152, just below Line 114, but Line 152 should not be included in total income at Line 150. Because the CPP disability benefits are already included in "total income" at Line 114, they should not be counted a second time at Line 152.

The payment to your daughter should not be reported as your income on your return - it is her income, even if you receive it on her behalf. It is taxable, but only in your daughter's hands, and there is no need to file a return on her behalf unless, by some chance, she has other significant taxable income and might owe tax for 1996. (She is not eligible for any refundable tax credits in her own right).

Long-term disability (LTD) payments are taxable if the employer paid the premiums. They are tax-free only where the individual paid the premiums. For a group plan to produce tax-free payments to those employees who become disabled, all employees must pay the premiums, either directly or through a payroll deduction or other system whereby the premium, if subsidized by the employer, is a taxable benefit. This is called an "employee pay-all" plan.

Where both you and your employer originally paid the premiums (with the employer's contribution being a non-taxable benefit), there is a formula to determine the taxable amount (but for the most part, the payments are taxable in this situation). For more information, obtain Information Bulletin IT-428, "Wage Loss Replacement Plans" from Revenue Canada.

5. I applied for CPP disability because of a disabling accident in 1994. Originally, I was turned down, but a Review Tribunal awarded me the disability pension retroactively to 1994.

as of the 1991 taxation year. For previous years, Revenue Canada would consider a request for "administrative relief" in this situation on a case-by-case basis. (The legislative authority was s.23 of the Financial Administration Act). In 1991, however, the Income Tax Act was amended, and the income will be allocated to the previous years to which it relates (in this case, 1994 and 1995) where this would be more favourable to the
taxpayer (if this amount is more than $300).

However, you must include the full amount of the lump sum payment at Line 114 and 152, and then Revenue Canada does the calculation to see which approach is better for you. See Line 114 in the "General Income Tax Guide 96" for details. If you want to do the calculation for yourself, see Line 500 on the T1 General Return and Schedule 1 ("Detailed Tax Calculation").

If you do not agree with the way Revenue Canada allocates the lump sum amount of CPP disability payments, ultimately it is your option, and you can request that Revenue Canada make the allocation in the way that you want.

If you received a lump-sum taxable disability payment other than CPP relating to more than one taxation year (LTD purchased by an employer, for example), you would apparently still be in the position of applying for administrative relief from Revenue Canada.

### 6. Can I contribute from my CPP disability pension and my LTD disability payments to my RRSP, in order to defer tax?

CPP (and QPP - Quebec Pension Plan) disability payments (received in 1991 or later) form part of your earned income for RRSP contribution limit purposes.

When Revenue Canada sent out the 1996 contribution limits for RRSP's, they took into account CPP (or QPP) disability payments reported on the 1995 income tax return.

Where CPP or QPP lump sum disability benefits were paid in 1996, but part of the lump sum is for previous years, it appears that the entire amount is included in 1996 (for RRSP No. New rules introduced by Revenue Canada in 1995 provide that "top-up" payments in response to failures of LTD insurers will not be taxable. These rules were developed in response to the failure of the Confederation Life Insurance Company in 1994.

The rules regarding LTD payments and RRSP's are complicated Generally, however, it appears that where the payments are taxable (because the contributions were originally paid by the employer - see Question 4), the payments will be included in earned income and form part of the RRSP contribution limit. Where the payments are not taxable (because the employee originally paid the premiums), they will not be included in the contribution limit.

### 7. I used to receive long-term disability (LTD) benefits of $2,500/month from an insurance company. It was tax-free as I was part of an employee pay-all plan. That is, the employees paid the premiums rather than the employer. The insurer became bankrupt.

As part of winding up of the insurer, my monthly Long-term disability payment was reduced by the Superintendent of Financial Institutions to $2000/month (the amount guaranteed by the Canadian Life and Health Insurance Compensation Corporation), and taken over by another insurer.

Fortunately, my employer is willing to pay me the additional $500 per month. Is the $500/month taxable?

### 8. How do I (or my dependant) qualify for the Disability Tax Credit (Disability Amount)?
for the Disability Tax Credit?

The Disability Tax Credit (Line 316 on the tax return for a taxpayer with a disability, Line 318 for a family member with a disability other than the spouse, Line 326 using Schedule 2 for the spouse with a disability) is obtained by having your physician or optometrist (for vision-related disabilities) complete form T2201, the Disability Tax Credit Certificate (available from Revenue Canada). You should get a current T2201 form since it is revised from time to time. However, the 1996 version is almost identical to 1994 and 1995.

The doctor must certify that the impairment is severe and prolonged. The test of severity is whether the effects of the impairment markedly restrict you or your dependant's ability to perform one or more basic activities of daily living all or almost all of the time. The test for prolonged is that the impairment has lasted for a continuous period of 12 months or is expected to last that long.

The T2201 form is submitted with your income tax return if you are claiming it for yourself or a family member for the first time. If the Disability Tax Credit was received last year and the disability has not changed, the T2201 does not need to be filed again, unless the T2201 filed last year indicated that the disability was expected to end in 1995, or Revenue Canada requests a new certificate. (Revenue Canada's pamphlet, "Tax Information for People with Disabilities", contains the T2201 as well as information on claiming the Disability Tax Credit.)

9. Have the eligibility rules for the Disability Tax Credit been changed from previous years? What should I discuss with my doctor when asking him or her to fill it out?

The federal Government has been restricting eligibility for the DTC over the past few years. Clearly, Revenue Canada's perception was that the DTC was being "abused", and the Government has acted both by amending the Income Tax Act and changing the Disability Tax Credit Certificate (T2201) to make it much more difficult to qualify than during the late 1980's.

In 1991, the Income Tax Act was amended to provide the following conditions under which an individual's impairment would qualify for the DTC:

(a) an impairment is prolonged where it has lasted, or may reasonably be expected to last, for a continuous period of at least 12 months;

(b) an individual's ability to perform a basic activity of daily living is markedly restricted only where all or substantially all of the time, even with therapy and the use of appropriate devices and medication, the individual is blind or is unable (or requires an inordinate amount of time) to perform a basic activity of daily living;

(c) a basic activity of daily living in relation to an individual means

(i) perceiving, thinking and remembering,

(ii) feeding and dressing oneself,

(iii) speaking so as to be understood, in a quiet setting, by another person familiar with the individual,

(iv) hearing so as to understand, in a quiet setting, another person familiar with the individual,

(v) eliminating (bowel or bladder functions), or

The T2201 form was revised for the 1994 taxation year, making it even more restrictive. The 1996 DTC form T2201 is almost identical to the
1994 and 1995 form. The T2201 now incorporates in certain items an even more restricted interpretation of eligibility for the DTC than this legislation would require. Additional comments in the pamphlet "Tax Information for People with Disabilities" (which contains the T2201) also serve to limit eligibility.

Let us consider the components of the legislated criteria for an impairment which would qualify for the DTC, as reflected in the legislated definition set out above, and in the questions asked of the doctor (or optometrist) on the 1996 T2201 form.

(a) "Prolonged"

Because the impairment must be for a continuous period of at least 12 months, people who have severe but episodic disabilities, such as multiple sclerosis or manic-depressive illness, will not be able to qualify in many cases.

(b) "All or Substantially all of the Time"

Revenue Canada apparently interprets this to mean 90% of the time or more. Someone whose disability has a variable effect from day to day will have difficulty qualifying for the DTC, even if they are very significantly disabled most of the time.

(b) "Even with therapy and the use of appropriate devices and medication"

This appears to mean that people will be assessed as if they had, for example, the best adaptive equipment available, even where this is not really the case. Or, in the case of a person with a psychiatric disability, entitlement to the DTC may be denied on the basis of the person's not taking his or her medication, even where this may be based on legitimate concern about side-effects, or where the individual's "refusal to comply" may

On the T2201, the physician is now required to answer two questions about the individual's abilities! "Is your patient able to feed himself/herself, using an aid if necessary?" and "Is your patient able to dress himself/herself, using an

itself be a product of his or her disability.

(b) "The individual is blind"

The T2201 now asks the physician or optometrist "Is your patient able to see, using corrective lenses if necessary? (Visual acuity of 20/200 or better in either eye, and 20 degrees or more visual field in the best eye, after correction.)". If an individual with low-vision does not meet this test, the strong implication is that he or she is automatically ineligible, even though the person might have a very significant vision impairment.

(c)(i) "Perceiving, thinking, and remembering"

On the T2201 form the physician is asked "Is your patient able to think, perceive, and remember, using medication or therapy if necessary? (For example, can manage personal affairs or do personal care without supervision).

Again, this wording is quite restrictive, in that the criteria for being able to "think, perceive and remember" are not set out. For a person with a very significant developmental disability, learning disability, or psychiatric diagnosis, careful documentation by the physician of inability to manage personal affairs is the usual route to establishing DTC eligibility.

However, this in effect requires the person to be labelled as "incapable" or "incompetent", which is contrary to accepted goals for most people with these disabilities. The reference to "using medication or therapy" raises the possibility that someone who actually has a "marked restriction" in activities of daily living will be found ineligible because he or she could function better with better treatment, whether it is actually being provided or not.

(c)(ii) "Feeding and dressing oneself" aid if necessary?"

Once again, the test is quite restrictive, as the test seems to be whether one can feed or dress oneself at all, without regard to the time it takes
(c)(iii) "Speaking so as to be understood, in a quiet setting, by another person familiar with the individual"

The revised T2201 now states this test in the question to the physician as "Is your patient able to speak so as to be understood in a quiet setting, using an aid if necessary? (Exclude language differences)." The main problem with this legislated test is that life does not go on entirely in a quiet setting. Someone could have a very significant speech disability and not qualify under this test for the DTC, especially having regard to the qualification "using an aid if necessary".

(c)(iv) "Hearing so as to understand, in a quiet setting, another person familiar with the individual"

On the revised T2201, the question for the physician relating to hearing disabilities is "Is your patient able to hear so as to understand a spoken conversation in a quiet setting, using an aid if necessary? (Exclude language differences)."

Essentially the same comment applies as to the previous test for speaking disabilities. A person can have a hearing impairment which restricts their day to day life very significantly and still not qualify for the DTC using this test. If a claim is to be made for a hearing disability, an audiogram for the year in question is probably still required, although the T2201 no longer has a specific reference to this.

Clearly, Revenue Canada does not want to consider any social or economic factors at all in relation to eligibility for the DTC. The booklet "Tax Information for People with Disabilities" makes it clear that those on disability income programs such as Canada Pension or Workers' Compensation, even if permanently outside the work force, do not necessarily qualify for the DTC.

(d) "No Other Activity..."
The T2201 formerly contained a place where the physician, or optometrist, could list "Other disabling impairments". But this section is now gone from the form. This has removed almost all of the physician's or optometrist's scope for interpretation, for example, with regard to who takes an excessive amount of time to do the activities listed in the Income Tax Act and on Form T2201.

Finally, on the revised T2201, the physician or optometrist is asked "Has the impairment lasted, or is it expected to last, for a continuous period of at least 12 months?" and "Is the impairment severe enough to restrict the basic activity of daily living identified above, all or almost all of the time, even with the use of appropriate aids, devices, medication, or therapy?"

If the doctor is unable to answer "yes" to either question, it is clear the individual will be ineligible. These questions basically reproduce the restricted test brought into the Income Tax Act in 1991 by the Federal Government.

The doctor is no longer asked to certify that the person is eligible for the DTC in so many words, but he or she is asked to certify that the information is "true and complete", and in reality, the physician or optometrist is still making the initial decision as to whether or not the person is eligible.

It is now much harder to qualify for the DTC, and it is more important than ever that the physician provide full and accurate information on the T2201 to support the claim.

Unfortunately, Revenue Canada provides no payments for doctors to complete this form, and individuals with disabilities and/or their families are responsible for payment. This causes a particular problem for those with low incomes, especially in light of the agreement between the Ontario Medical Association and the Provincial Government which does not allow OHIP coverage of these payments.

Some doctors are also reluctant to get involved in "fighting" with Revenue Canada and the Medical Advisory Panel at Human Resources Development Canada over their patients' eligibility for DTC.

The adjudicators at HRD reject or question eligibility assessments by the person's own doctor in a significant number of cases and may contact the physician or optometrist with a request to provide a significant amount of additional information.

Starting with the 1996 taxation year, Revenue Canada has adopted a policy of reviewing new DTC claims before assessing the taxpayer's return. The stated intent is to avoid retroactive reassessments, but giving more scrutiny initially to DTC claims may also lead to more claims being rejected. It will certainly lead to an initial delay in processing returns with new DTC claims.

However, once a claim is accepted, under the new approach the taxpayer will be able to claim in subsequent years without so much concern regarding retroactive reassessment. Revenue Canada has not given an iron-clad guarantee, however, that no cases will be reviewed retroactively in future. For example, a fraudulent claim (such as forgery of the doctor's signature) would presumably be grounds for the government to re-open a claim for previous years.

10. My father is 96 and uses a wheelchair. Can he claim the Disability Tax Credit?

Yes, there is no age restriction. Seniors are eligible if they meet all of the requirements.
11. **My child, born in 1996, has spina bifida. If her doctor certifies this disability using the T2201, can I get a transfer of the DTC to me (at Line 318)?**

Yes, a child born in 1996 may be eligible for the full amount of the Disability Tax Credit. For children under 3, the test of marked restriction in activities of daily living is interpreted relative to what is developmentally appropriate for the child's age, taking into account the prognosis for the future, but infants and small children can qualify if their disabilities are significant enough.

Line 318 refers to a "transfer" of the DTC, which seems odd where the person eligible for the DTC is a small child, but it is clear at Line 318 that children under 18 can qualify regardless of age, so long as they are medically eligible.

12. **Originally Revenue Canada allowed my Disability Tax Credit claim for the 1994 and 1995 tax years. Then I got a letter with a questionnaire asking for more information, and another questionnaire went to my doctor.**

After the replies were sent in, I got another letter disallowing my DTC claims for both years and requesting repayment with interest. What is going on? Can I do anything?

Revenue Canada has audited your claim. They only audit some of the millions of returns filed each year, so the fact that your claim may have "gotten through" for previous years doesn't mean that much. (As of 1996, however, there is a new policy where Revenue Canada will review all new DTC claims before assessing returns - see Question 9).

You can appeal the reassessment decision. In some circumstances, you can claim a transfer of the unused portion of the DTC from a family member who is disabled. You must be a "supporting person" of that individual. His or her taxable income is taken into account. (This is discussed in more detail when we deal with

13. **May I claim the Disability Tax Credit for a family member who is disabled? Is his or her income taken into account?**

A number of taxpayers have now appealed the denial of the DTC to the Tax Court of Canada, but it appears from the decisions reviewed so far that the Tax Court is upholding Revenue Canada's restrictive interpretations in the majority of cases. In several cases where the Tax Court judges dismissed the taxpayer's appeals, they have expressed great sympathy for the disabled individuals and commented on the harshness of the legislation (see Question 47 below dealing with appeals.).

The issue of the reassessment being retroactive for more than one year can and should be raised separately with Revenue Canada from the basic issue of entitlement. During 1996, federal Revenue Minister Jane Stewart gave assurances to ARCH that taxpayers who had reassessed for multiple years with respect to the DTC could write to the Chief of Appeals at their local Tax Services Office regarding the retroactive reassessment, and expect it to be cancelled unless there were unusual circumstances.

This separate process does not alter the need to appeal the main issue of DTC entitlement, for taxpayers who wish to do this. But it provides a separate route for dealing with the unfairness and financial hardship caused by retroactive reassessment. [For details, see "Revenue Minister Clarifies Disability Tax Credit Procedures", by David Baker and Harry Beatty, in ARCH•TYPE Vol 13 No 6/Vol 14 No 1 (Mar/April 1996) at page 68].
claiming a personal amount for someone as a dependant, which is different from obtaining a transfer of the Disability Tax Credit. See Questions 20 through 24.)

14. **What is the Disability Tax Credit really worth?** Line 316 on the return says "claim $4,233" but is that the real amount I can get? Does everyone who qualifies for the DTC receive the same amount?

Unlike the refundable tax credits discussed in Question 2, the DTC is one of the non-refundable tax credits found at Step 5 of the income tax return. This means that it can only be used to reduce tax that otherwise would have to be paid. It does not lead to a refund for those who don't pay any tax, such as Family Benefits recipients or those who have only Workers' Compensation payments as income.

So not all taxpayers receive the same benefit. Those with lower taxable incomes may benefit less or not at all. In some cases, however, people with disabilities may be able to transfer the unused value of their disability credits to another family member who does pay tax. (See Questions 20 through 24.)

Care must be taken to understand the meaning of "non-refundable". People who are employed have tax deducted from each paycheque. At the end of the year, if Revenue Canada owes them money, they get a refund. If they qualify for non-refundable credits, that will increase their refund in some cases, and reduce their tax owing in others. Where the non-refundable credit increases their refund, however, this is because it is reducing their tax liability on tax they have already paid through their payroll deductions. If they had not had any tax deducted, and didn't otherwise owe tax, the non-refundable credit would not increase their refund.

The real value of the Disability Tax Credit varies from about $1100 to $1300 for those who would otherwise pay that much tax. (It varies depending on the province and on an individual taxpayer's circumstances, such as whether he or she pays surtax. The basic value of the DTC is the same to taxpayers with disabilities and those who can obtain a transfer of the credit from a disabled family member).

Originally, $4,233 is claimed at Line 316 (taxpayer with a disability), Line 318 (family member with a disability other than a spouse) or Line 326 (spouse with a disability - using Schedule 2). Where the claim is for a family member with a disability who has some taxable income, the claim may be less, but let's assume for now it's $4,233.

At line 338, all of the non-refundable tax credits are converted to credits by multiplying them by 17%. This converts $4,233 to a tax credit of $720. But this is the federal tax credit. Since Ontario also charges income tax, at a basic rate of 56% of the federal tax, we multiply $720 by 56% to get a provincial tax saving of $403. Adding together $720 and $403, we get a combined federal and provincial tax saving of $1123, which should be increased somewhat to reflect a saving in federal and provincial surtaxes as well.

As the credit is non-refundable, the full benefit is available only to those who would otherwise have paid $1123 or more in federal and provincial tax (either through payroll deductions or after completing their returns). For those who would pay a lesser amount, the value is the tax they would have paid.

For those who would pay no tax anyway, the DTC has no value to them personally (although they may be able to transfer the credit to someone else).

15. **I am a paraplegic who works full time. May I claim the Disability Tax Credit?**
"prolonged impairment that markedly restricts all or substantially all of the time [your] ability to perform basic activities of daily living". It is not part of the criteria that you be unable to work.

People with disabilities who meet the tests are eligible whether or not they are employed. Conversely, as discussed in Question 9 (see "No Other Activity"), people who are unable to work may well still be ineligible to receive the DTC.

16. My child is disabled. I wasn't aware of the DTC until very recently. His doctor says she will fill out Form T2201 and that, in her opinion, my child has met the eligibility tests since her birth in 1985. Can I make the DTC claim for all of the tax years back to 1985?

Revenue Canada will consider claims for refunds back to the 1985 taxation year. (See Question 46 regarding how to make claims for previous years.) However, prior to the 1986 taxation year, the disability claim was only for people who were blind or "confined to a bed or wheelchair", so this would have to be taken into account in determining whether your child was eligible in 1985.

As discussed in Question 46, although there is no reason not to pursue this claim back to 1985 if your child was obviously eligible, if the claim might be doubtful, perhaps you should consider limiting the years of retroactivity claimed, in consultation with your child's physician. A retroactive claim for a decade will not be granted by Revenue Canada without careful scrutiny.

WORK-RELATED EXPENSES

17. I am a wheelchair user. I pay an attendant $100/week to assist me at my workplace, since government funding is not available for this necessary support. Can I claim this expense on my tax return? What if I have also claimed the Disability Tax Credit?

Can I claim this and also claim for a part-time attendant at home? As well, my employer pays for me to have a space for my accessible van in a parking lot. Is this a taxable benefit to me?

Attendant care expenses related to employment or training are deductible on your return at Line 215. You must get and complete Form T929, "Attendant Care Expenses". Only people eligible to claim the DTC can claim this (or any other) attendant care expense. The attendant must be at least 18 years old and not your spouse. Only a taxpayer with a disability who pays attendant care expenses at work or occupational training can make this claim - not a "supporting person" even if they make these payments.

The amount of this claim (which is a deduction, not a credit) is limited to $5,000 or 2/3 of your "earned income" (basically income from employment or a business), whichever is lower. You can claim only what you paid yourself, not what the government or an agency pays on your behalf. You can claim for this attendant care item and claim the Disability Tax Credit as well. Receipts do not have to be submitted with your return, but must be kept in case Revenue Canada asks to see them during an audit.

You cannot claim both the attendant care at work deduction at Line 215 and the part-time or full-time attendant care medical expenses at Line 330. (Only one attendant care claim may be made: see Question 33 for more information).

The Income Tax Act was amended effective with the 1991 taxation year to make it clear that, where an employer pays disability-related transportation or attendant care expenses for an employee, it is not a taxable benefit to the employee. So the parking space is not a taxable benefit to you. If your employer paid for your attendant care, these payments would not be a taxable benefit to you either.
difficult for me, even with a TTY, so I pay an assistant $500 a month or $6000 a year out of my own pocket to help. Can I claim this on my income tax?

There are four approaches to paying an assistant or attendant and getting some tax relief under the Income Tax Act. First, if your job can be considered an independent business, the cost of hiring an assistant is just an ordinary business expense. But if you are an employee, that doesn't work.

Second, you can claim up to $5,000 for part-time attendant care expenses related to employment (see Line 215), assuming a clerical assistant would be accepted by Revenue Canada as an "attendant".

Revenue Canada has indicated that they are willing to accept a fairly wide interpretation of "attendant", so long as it relates to assistance being provided in relation to the kinds of restrictions in activities of daily living which would qualify you for the Disability Tax Credit.

As a profoundly deaf person, you would qualify for the DTC, which is necessary in any event for you to be able to make this attendant care claim. This claim is limited to 2/3 of your "earned income", but assuming this is not a problem for you, you could claim $5,000 of the $6,000 at Line 215 as a deduction from income.

Third, you could consider an attendant care claim as a medical expense, but even if this claim were successful it would probably be less valuable to you than the work-related attendant care claim just discussed. This is because the medical expenses claim is converted to a 17% federal credit after 3% of your net income is deducted [see Question 27 for more on calculating the value of medical expense claims], while the work-related attendant care claim is a deduction from taxable income.

Making either attendant care claim would preclude making the other one, even with respect to different expenses. Further, if you claimed the entire $6,000 as a medical expense, this would be considered a "full-time" attendant care claim and you would lose your entitlement to the Disability Tax Credit. [See Question 33.]

Fourth, if you have a contract of employment which requires you to pay this assistant, you can claim the expense using a Form T2200 completed by your employer (see Line 229). You can get more information from the Revenue Canada publication, "Employment and Expenses 96". Your employer should clarify in a written contract of employment that the hiring of the assistant is your legal obligation.

Better still, get your employer to assume the actual costs as a job-related accommodation, which may be mandated under the Ontario Human Rights Code if it applies. Then you won't need to pay the assistant at all! And it won't be a taxable benefit to you either! (see Question 17 above).

18. I am part of a group of employees with disabilities at my workplace. Our employer consulted with us regarding accessibility accommodations.

In consultation with us, the employer developed and implemented a preliminary employment equity plan, which included the installation of exterior and interior ramps, electric door openers, the widening of doorways, bathroom and elevator modifications including braille and audio signals, the installation of TTYs, and the purchase of adapted computer equipment for staff who require this because of a disability.

Making either attendant care claim would preclude making the other one, even with respect to different expenses. Further, if you claimed the entire $6,000 as a medical expense, this would be considered a "full-time" attendant care claim and you would lose your entitlement to the Disability Tax Credit. [See Question 33.]

Fourth, if you have a contract of employment which requires you to pay this assistant, you can claim the expense using a Form T2200 completed by your employer (see Line 229). You can get more information from the Revenue Canada publication, "Employment and Expenses 96". Your employer should clarify in a written contract of employment that the hiring of the assistant is your legal obligation.

Better still, get your employer to assume the actual costs as a job-related accommodation, which may be mandated under the Ontario Human Rights Code if it applies. Then you won't need to pay the assistant at all! And it won't be a taxable benefit to you either! (see Question 17 above).

18. I am part of a group of employees with disabilities at my workplace. Our employer consulted with us regarding accessibility accommodations.

In consultation with us, the employer developed and implemented a preliminary employment equity plan, which included the installation of exterior and interior ramps, electric door openers, the widening of doorways, bathroom and elevator modifications including braille and audio signals, the installation of TTYs, and the purchase of adapted computer equipment for staff who require this because of a disability.

Making either attendant care claim would preclude making the other one, even with respect to different expenses. Further, if you claimed the entire $6,000 as a medical expense, this would be considered a "full-time" attendant care claim and you would lose your entitlement to the Disability Tax Credit. [See Question 33.]

Fourth, if you have a contract of employment which requires you to pay this assistant, you can claim the expense using a Form T2200 completed by your employer (see Line 229). You can get more information from the Revenue Canada publication, "Employment and Expenses 96". Your employer should clarify in a written contract of employment that the hiring of the assistant is your legal obligation.

Better still, get your employer to assume the actual costs as a job-related accommodation, which may be mandated under the Ontario Human Rights Code if it applies. Then you won't need to pay the assistant at all! And it won't be a taxable benefit to you either! (see Question 17 above).
cost-shared all the renovations 50-50 with the employer at the satellite office except for the TTYs and adapted computers? All these expenditures were incurred by the employer and ABC during 1996.

By Regulations passed under the Income Tax Act, your employer is entitled to claim all of these costs, except for the computers themselves, as a business expense during 1996. Prior to these Regulations, which first were made effective as of December 31, 1990 and later amended effective February 25, 1992 (these are the effective dates although the Department of Finance did not actually enact the regulations until late in 1993) the cost of these renovations would have been spread out over several years using Capital Cost Allowance (CCA).

The Regulations allow a one-year "write-off" which is a much more favourable tax treatment than CCA in most cases. ABC can claim all of its expenditures as well. It is not necessary that a business actually be an employer of persons with disabilities (so ABC can claim) or own its premises (so the employer can claim for its share of the renovations at the satellite office) in order to get the favourable tax treatment under the Regulation. It is only necessary that the business or company incur the expenditure as part of its operations, intending to benefit customers, tenants, and so on. The disability-related accessories to the computers receive this favourable tax treatment. The computers themselves, however, are not covered by the Regulation.

Family Benefits, and the Ministry of Community and Social Services has sent him a T5007 slip for $6,000 for 1996. Can I claim him as an "infirm" dependant aged 18 or older at Line 306? Would the answer be different if the T5007 slip had been for $7,000? $4,000?

Can I get a transfer of his Disability Tax Credit at Line 318? (His physician has certified that he is eligible for the DTC.). Would the answers be different if he were 15 and not receiving any income? Would the answers be different if he were not living at home?

At Line 306 you may claim an amount for a dependent son or daughter who was born in 1978 or earlier (and was therefore over 18 during at least part of 1996) if your son or daughter was "physically or mentally infirm". ("Dependant" or "dependent" is not defined in the Income Tax Act but requires that the "supporting person", in this case you as the parent, provide at least partial support to the individual with a disability during the year.

"Infirmity" requires a doctor's certificate but it is a more general concept than eligibility for the DTC. Revenue Canada appears to equate "infirmity" with "inability to be gainfully employed", which would cover many more people than the DTC. (There is no special form for certifying "infirmity".) The maximum claim, which would be converted to a 17% federal credit, is $2,353. (This has been increased for the 1996 taxation year. In 1995, the maximum claim was only $1,583).

As the Guide explains, whether this claim can be made depends on the "net income" of the son or daughter. A social assistance payment such as Family Benefits (or Workers' Compensation) is included in "net income" for this purpose (see Question 3).

increased significantly as well. The level at which the dependant's net income begins to reduce this claim has also been increased over 1995 levels,
from $2,690 (1995) to $4,103 (1996). The effect of the two improvements taken together is that the maximum "net income" the dependant can have and still leave some entitlement to the "infirm dependant" claim has increased from a 1995 level of $4,273 to a 1996 level of $6,456. (These figures are the sum of for each year of the maximum "infirm dependant" claim and the level of income the dependant can have before the claim is reduced.)

So you can still make a partial "infirm dependant" claim with respect to your son for 1996. Because his net income of $6,000 is less than $6,456, you can calculate this partial claim using Schedule 6 and enter it on line 305 of your return.

At Line 318 you are also able to obtain a transfer of your son's unused Disability Tax Credit of $4,233. All of his DTC is an unused amount since your son pays no tax and can't make use of this non-refundable credit himself. There is a calculation of the amount available to transfer under Line 318 at page 29 of the General Tax Guide 96 ("Unused part of dependant's disability amount").

Your son's income is taken into account in this calculation, but it is his taxable income, which does not include social assistance payments such as Family Benefits and Workers' Compensation. As well as claiming your son as an "infirm" dependant, you can get a transfer of his DTC.

If your son's "net income" for 1996 had been $7,000, you could not have made even a partial "infirm dependant's" claim for him at Line 306, because his income would be more than $6,456. But you still could get a transfer of his Disability Tax Credit at Line 318. The basis for this claim is that, if he had had no income, you could have made a "Line 306" claim for him. If your son's "net income" for 1996 had been $4,000, as well as transfer of the DTC at Line 318 you would have gotten the full "infirm dependant's" claim at Line 306, as his income would be less than $4,103, the point at which the dependant's net income starts reducing the claim.

If your son were 15 with no income of his own, you would be eligible to apply for the Child Tax Benefit for him just as for any other child (whether it would be available would depend on your and your spouse's income), and a transfer of his DTC at Line 318 could be obtained as well.

If your son were not living at home, you can still claim both the "infirm" dependant amount (Line 306) and a transfer of his DTC (Line 318) so long as he were "dependent" on you. You would have to be providing at least partial support to him. (see Question 22 for more details).

21. My common-law wife of two years has severe asthma. Her specialist has completed the Disability Tax Credit certificate (T2201) for her. Can I claim the spousal amount for her at Line 303? Can I claim a transfer of her DTC (which she doesn't need as she has no taxable income)?

You claim the spousal amount at Line 303 for your spouse as for any other spouse without income. Effective with the 1993 taxation year, common-law spouses (thus far restricted to opposite-sex couples under the Income Tax Act) where there is a relationship of 12 months or more, or where the spouses are the natural or adoptive parents of a child, are treated the same as legally married spouses for all income tax purposes. (See page 8 of "General Income Tax Guide 96" for an overview and some examples: a full discussion of all circumstances is beyond the scope of this article).

Your spouse's disability is irrelevant to claiming the spousal amount. The maximum spousal amount claim for 1996 is $5,380, which is converted to a 17% federal tax credit. It is reduced by the spouse's net income which includes social assistance and Workers' Compensation. You can also claim a transfer of your spouse's unused DTC (Disability Amount) at Line 326 (using Schedule
2).

22. **What is the equivalent-to-spouse amount, and when can I claim it? What relatives may I claim as "infirm" dependants if they are adults with disabilities? When can I obtain a transfer of the Disability Tax Credits of relatives with disabilities?**

The equivalent-to-spouse amount, in tax years prior to 1993 called the "equivalent-to-married" amount, is claimed at Line 305 using Schedule 5. It is intended to provide a claim equivalent to the spousal claim for taxpayers who do not have a spouse but support another family member, subject to certain conditions.

Remember that starting with the 1993 taxation year, common-law couples of the opposite sex are considered "spouses" if in a relationship of at least 12 months' duration or if they have a child together by birth or adoption. (See Question 21.)

The equivalent-to-spouse amount can only be claimed by taxpayers who were single, divorced, separated, or widowed (for at least part of 1996), and who supported a dependant at that time. Someone who has a "spouse" under the new definition cannot make this claim, although he or she may be able to claim the spousal amount, depending on the spouse's income. A spousal amount claim and an equivalent-to-spouse claim cannot be made by the same person, or if anyone else in the same household is making an equivalent-to-spouse claim.

Each household is allowed only one equivalent-to-spouse claim. A parent entitled to deduct payments for child support is not allowed an equivalent-to-spouse claim (there is an exception for the first year of such payments). If someone makes the equivalent-to-spouse claim for a person, no one else can make the same claim with respect to that person. The equivalent-to-spouse claim cannot be divided among taxpayers.

A change for the 1996 taxation year is that it is possible to make a claim on both Line 305 ("equivalent-to-spouse") and Line 306 ("infirm dependant") with respect to the same individual. The calculation is explained at Line 306 on page 26 of "General Income Tax Guide 96".

The equivalent-to-spouse amount can only be claimed for a person related to you by blood, marriage or adoption. The person must have lived with you in a home that you maintained in 1996. The person must have been supported by you during a time in 1996 when you were single, divorced, separated, or widowed. These conditions may be satisfied for only part of the year and the claim may still be made.

Dependants living away from home while attending school are still considered eligible for this claim if they lived with you while not in school. A relative living outside Canada is not eligible for this claim unless he or she is your child (under or over 18).

If the relative lived with you for part of 1996 and was supported by you in a home you maintained, you can claim the equivalent-to-spousal amount as follows:

- A child under 18 may be claimed (regardless of disability or "infirmity").
- A parent or grandparent who lives with you may be claimed under the equivalent-to-spousal amount regardless of age, and regardless of whether or not the parent or grandparent is "infirm". Other relatives over 18, including children, parents or grandparents not living with you must be "mentally or physically infirm". (See the discussion of "infirmity" at Question 20.)

The equivalent-to-spousal amount, like the spousal amount (Line 303), is a maximum of $5,380, converted to a 17% federal tax credit. It is reduced by the dependent relative's income which includes social assistance and Workers' Compensation.

Next, there are "amounts for infirm dependants aged 18 or older" which can be claimed for the following dependent relatives at Line 306 using Schedule 6:
children

grandchildren

parents

aunts

uncles

nieces

nephews

in-laws under all of the above categories (that is, people who stand in one of the listed relationships to your spouse)

if they are resident in Canada (except for children and grandchildren who don't need to live in Canada), dependent on you (at least in part) for support and "mentally or physically infirm" (if adults). The maximum claim for a dependent adult is $2,353 (converted to a 17% federal tax credit) which is reduced by the dependant's income including social assistance and Workers' Compensation.

As shown in the example worked out in Question 20, both the maximum claim at Line 306 for an "infirm dependant" and the level at which the dependant's net income begin to reduce the claim have been significantly increased for the 1996 taxation year. Accordingly, many taxpayers may be able to make at least a partial "infirm dependant's" claim who have not been able to do so in recent years. You should do this calculation carefully to see if you might be eligible.

Next, we consider whether you can obtain a transfer of your dependent relative's Disability Tax Credit at Line 318. Remember (see Question 20) that this is a separate question from whether you can make the claims at Lines 305 and 306 just discussed, although the issues are related in certain ways. There are three classes of dependent relatives for whom you may obtain a transfer of their unused DTC.

The first class includes children and

grandparents

brothers

sisters

grandchildren. (An example involving children was already discussed in Question 20.) You may obtain a transfer of the unused portion of the DTC from your children or grandchildren, or your spouse's children or grandchildren (including small children in each case - see Question 11 for more information), if they lived in Canada at any time in 1996 and one of the following applies:

✓ they were born in 1979 or later (under 18 throughout 1996)

✓ you claimed them under the equivalent-to-spousal provision at Line 305 (discussed earlier in this question)

✓ you claimed a personal amount for them at Line 306 (as discussed earlier in this question)

✓ you could have claimed them under Line 306 if they had no income.

The last provision is certainly confusing because of the hypothetical manner in which it is expressed. The expression "if they had no income" means essentially that you only look at whether the child or grandchild, who must be "mentally or physically infirm" if over 18, was dependent on you for support.

Go back to Lines 306 and see whether you could have claimed the person if his or her income had been $0. If the answer is "yes", then the transfer of the unused DTC (Disability Amount) at Line 318 should be claimed if the other eligibility conditions apply.

The second class with respect to DTC transfers is parents and grandparents (including in-laws). The test here is whether you actually claimed the equivalent-to-spousal amount for them, or if they lived with you in a home that you maintained. Basically, this extends the possibility...
of transfer of the Disability Tax Credit to people who have parents or grandparents living with them and dependent on them for support.

The third class for this claim is other relatives. You may obtain a transfer of the unused
The maximum claim is $4,233, the full amount of the Disability Tax Credit. It can be transferred if the dependant does not use it to reduce his or her own taxable income. If the dependant has taxable income, the calculation at Line 318 in the "General Income Tax Guide 96" (on page 29) must be carried out.

The key point in this calculation is that reduction of this claim occurs when the dependant has taxable income. "Taxable income" does not include social assistance and Workers' Compensation. So the full amount of the DTC may be transferred to the supporting relative if the above conditions are met, despite the dependant's social assistance income (such as Family Benefits or Workers' Compensation).

Finally, the claim for the transfer of the unused portion of the DTC may not be made if a medical expenses claim is made at Line 330 for a full-time attendant or care in a nursing home. However, it can be combined with a claim for a part-time attendant at work, at Line 215, or a part-time attendant at home, as a medical expense credit, at Line 330. (In each case, "part-time" basically means the annual claim is $5,000 or less. See Question 33 for more information.)

23. My disabled mother, who is 62, lives with my wife and me. No one else lives with us. She receives Family Benefits but we also help to support her. In 1996, I was disabled myself due to a work injury and received Workers' Compensation all year. What claims can my wife, who was regularly employed all year in 1996, make with respect to my mother?

Your spouse may not make the equivalent-to-spouse claim (Line 305) with respect to your mother because she was married to you. Your spouse may claim your mother at Line 306 DTC from them only if you actually claimed them under the equivalent-to-spousal provision (Line 305). Even if you claimed them as "infirm" at Line 306, this does not suffice to claim a transfer of their unused DTC at Line 318.

under "Amounts for Infirm Dependents Aged 18 or older" (using Schedule 6), but the claim will be reduced or eliminated by your mother's social assistance payments (it depends on the amount shown on the T5007 - see Questions 3 and 22).

Your spouse may, however, claim a transfer of your mother's unused Disability Tax Credit at Line 318. This is because your mother lived in a home which your spouse maintained. (You could make the same claim, but it won't benefit you because your Workers' Compensation payments are non-taxable.)

To claim, your spouse should attach your mother's completed DTC certificate (T2201) to her return.

24. I send money to my disabled brother in France to support him. Can I make a claim for him? I also support my disabled sister who lives with me. Her doctor has certified her as eligible for the Disability Tax Credit. No one else lives with us. Her only income is $1,000 a year in bank account interest. (She lives on her savings.) What claims can I make for her? How will her income affect these claims?

No claim can be made for your brother. The only possible claim is under "amounts for infirm dependants aged 18 or older" at Line 306, and he is ineligible because he is not resident in
Canada. (However, a child under 18 or dependent because of disability may be claimed when outside Canada if still dependent on his or her parents.).

From your sister's return, her "net income" (at Line 236) will be $1,000. (As explained at Question 1, your sister should file a return to obtain her refundable credits and to be able to Having claimed the equivalent-to-spousal amount for your sister, you can also claim the unused portion of her Disability Tax Credit at Line 318. Use the calculation in the Guide at Line 318 (at page 29). Her taxable income is $1,000, but that is offset by her "basic personal amount" (Line 300) of $6,456. So all of her DTC of $4,233 is unused and may be transferred to you (to be converted, of course, to a 17% federal tax credit).

DISABILITY-RELATED EXPENSES AS MEDICAL EXPENSES, AND OTHER MEDICAL EXPENSE CLAIMS

25. What disability-related expenses can I claim under the Income Tax Act?

There is no specific heading for disability-related expenses. Certain items can be claimed as medical expenses (Line 330). There are many items that can be claimed, and many that cannot be. The starting point is to review Interpretation Bulletin IT-519R, "Medical Expense and Disability Tax Credits and Attendant Care Expense Deduction", available from your District Taxation Office. It describes in some detail which amounts are allowed. It is important to get the IT-519R dated February 20, 1995, since the previous IT-519 was released in March, 1989. The revised IT-519R now has a comprehensive list of allowable medical expense claims.

There is no longer a schedule provided for claiming medical expenses, but the method of making the claim is unchanged. The essential point is that you have to retain all receipts to claim medical expenses and file them with your return.

Some examples of the claimable expenses apply for other government programs.).

You can claim the equivalent-to-spouse amount for her, at Line 305, using Schedule 5, but her income will reduce the claim from the maximum of $5,380 to $4,918 (using the calculation on Schedule 5). This will, of course, be converted to a 17% federal tax credit.

are:

* the services of a psychologist who is licensed by a province to provide therapy or rehabilitation
* registered nursing services, including home care
* all prescribed medicines and drugs
* incontinence supplies, including catheters
* wheelchairs and other mobility aids
* TTYs, closed caption decoders, and similar devices
* devices to adapt computers (but not the cost of the computer itself)
* premiums paid to a private (but not a governmental) health insurance plan.

Some non-claimable items are:

- nutritional supplements
- athletic club expenses
- any expenses which you do not pay yourself or for which you are reimbursed by a private insurer or government plan.

26. I am a deaf person. In 1996, I paid $250 for a visual fire alarm for my apartment, and $600 for a sign language course. Can I claim these amounts as medical expenses?

Yes. A provision effective as of the 1992 taxation year added the following categories of medical expenses eligible to be claimed at Line
the cost of visual or vibratory signalling
devices to help people with a hearing
impairment (for example a visual fire
alarm); and

payments for rehabilitative therapy to
calculated? If I have a "net income"
(at Line 236) of $30,000, what part
of medical expenses of $1,400 can I
claim?

Your medical expenses are totalled and
submitted at Line 330. Then you subtract 3% of
your net income or $1,614, whichever is less. In
this example, 3% of your net income is $900,
which is less than $1,614, so you subtract $900
from $1,400 to get $500. Then 17% of this amount
is ultimately taken at Line 338 to get your federal
credit. In this example, your federal credit is $85.
Counting the resulting reduction in provincial tax
and federal surtax, the value of the credit to you is
about $140.

You can see that the credit is quite low in
relation to your actual medical
expenses/disability-related costs, and this is often
the case for people with higher disability-related
expenses. The medical expense credit is non-
refundable, so you must have tax otherwise
payable in order to benefit from it. Otherwise, a
"supporting person" who paid the expenses may
be able to claim them (See Questions 28 and 29).

28. I am a person with severe arthritis.
I had $25,000 in net income (Line
236) last year and had $3,000 in
medical expenses.

My spouse, who had a net income
of $40,000, paid $2,500 of the
medical expenses and I paid the
other $500. Which of us can claim
the medical expenses? Which of us
should claim to get the maximum
benefit?

You or your spouse (which as of the 1993
taxation year includes a common-law spouse - see
Questions 1 and 21) may claim medical expenses
help people adjust to a speech or hearing
loss, including training in lip-reading and
sign language.

27. How is the medical expense credit

for either of you or your dependants, regardless of
who actually paid them. Interpretation Bulletin IT-
519R, "Medical Expense and Disability Tax
Credits and Attendant Care Expense Deduction",
says at paragraph 17:

"An individual may use the
medical expenses of a spouse or
a separated spouse regardless of
that spouse's income in the
taxation year. A receipt in the
name of a husband or wife is
considered acceptable for a
medical expense of either, and
the amount of that expense may
be used by either, as agreed
between them."

As your net income is lower than your
spouse's, the 3% reduction would be less if you
made the medical expense claim (a reduction of
$750 for you as opposed to $1200 for your spouse
in this example), so you should make the claim
unless there are exceptional circumstances which
mean that you do not otherwise have sufficient tax
to pay for 1996 to take full advantage of the
medical expense credit yourself. Remember that
this is a non-refundable credit.

29. My spouse and I both work. I paid
$8,000 in medical expenses last
year on behalf of our 12-year-old
daughter, who has spina bifida.
Can my wife claim the expenses
even though I paid them? Would it
be advisable if she has the lower
income?

I also paid $1,500 in medical
expenses for my mother who has a
disability. I claimed my mother as
an "infirm" dependant at Line 306.
Can I claim my mother's medical
expenses too?

As discussed in Question 28, either spouse may claim the medical expenses for your daughter. You may claim medical expenses which you paid for your or your spouse's parent, however, you have to consider the "medical expenses adjustment" at Line 331. For all dependants other than your spouse, where the dependant had net income over $6,456 (including social assistance or Workers' Compensation) in 1996, a reduction in medical expenses will be calculated should you choose to claim medical expenses for them.

Where the medical expenses claimed for the dependant is less than the amount of the medical expenses adjustment for that dependant, you would be better off not to make the claim. So you should carry out this calculation at Line 331 (page 33) with respect to your mother's medical expenses in order to make this comparison.

30. My son is 19 and has a psychiatric disability. He lives at home with my spouse and me. In 1996, he received Family Benefits as a person with a disability, of which $6,500 was reported on his T5007 slip from the Ministry of Community and Social Services. We provided additional help to him out of our own funds including $2,800 for special dental work in 1996.

Can I claim the $2,800 as a medical expense? I understand that my son's Family Benefits reported on the T5007 are included in his "net income" so I can't claim him as an "infirm" dependant at Line 306 (although I can get a transfer of his Disability Tax Credit at Line 318 should he be eligible for it - see Question 20).

The dental expenses are medical expenses. You are allowed to claim them when paid for your son because he is dependent on you for support (since he lives in your home, we can assume you provide some support to him). Since his net income of $6,500 is more than $6,456, as explained in the previous Question, there will be a "medical expenses adjustment at Line 331). Using the calculation on page 33 of the General Income Tax Guide, the medical expenses adjustment in this case is just ($6,500- $6,456) x4= $176. Since $176 is much less than $2,800, you should make the claim, but it will be reduced by the $176 amount.

31. My spouse and I received $7,500 from the Special Services at Home Program of the Ontario Ministry of Community and Social Services last year to pay for respite care (parental relief) and an adapted recreational program for our 5-year-old daughter with a disability.

Do I pay tax on this money? Can I claim the expenditures as medical expenses?

The $7,500 is not "income from a source" within the meaning of the Income Tax Act and is not taxable. (The Ministry of Community and Social Services has obtained a ruling from Revenue Canada to this effect. You will not receive a T5007 from MCSS for these payments.). It is basically a grant for your daughter which is not income at all. Since expenditures for which the taxpayer has been reimbursed cannot be claimed as medical expenses, whether the reimbursement is through a government plan or a private insurer, you can't claim them as medical expenses either. (Handicapped Children's Benefits payable through the Family Benefits Act are not "income" either. No T5007 slips are sent out by MCSS for HCB payments.).

32. I was very ill beginning in November, 1996, and paid $800 per week privately for nursing care. I
expect to need this care until the end of March, 1997. Should I claim the nursing care provided in 1996 as a medical expense on my 1996 return?

You may do so, but depending on your circumstances, it might be better to wait and claim all of your expenses in the 1997 taxation year.

The reason it is likely better to wait is that, by claiming all of the nursing expenses in 1997, you only make the deduction of 3% of net income from them once rather than on the return for both years. However, it is not possible to answer definitively without doing all of the calculations on your returns for both years.

33. I was seriously injured in a motor vehicle accident some years ago and I require full-time attendant care because of my disabilities. I pay three different attendants to work different shifts out of the substantial insurance settlement I received. One of the attendants is my 19-year-old daughter, and another is a 17-year-old neighbour.

Can I claim all of their salaries as a medical expense? Can I also claim the Disability Tax Credit using form T2201?

My friend requires only part-time attendant care. She spent $10,000 for a part-time attendant to help her at home in 1996. Can she claim this amount as a medical expense?

As the General Income Tax Guide 96 states at Line 330, you can claim a full-time attendant as a medical expense. A court decision in 1970 held that several part-time attendants should be treated the same as one full-time attendant.

However, a person who is under 18 or who is the spouse of the person claiming the credits is not an "attendant" for tax purposes. So, in this case, the salary paid to your daughter can be claimed as a medical expense, while that paid to your neighbour cannot be, since the neighbour is under 18. (This was a change in 1991 from previous taxation years, where payments to related adults and dependants were more generally excluded.).

For you to be eligible to claim for a full-time attendant, your physician must complete the DTC certificate, T2201. However, you may not claim the DTC if you are claiming for a full-time attendant (nor may anyone else receive a transfer of the DTC). You should make the more favourable claim. (Compare with Question 17: you can claim both the DTC and work-related attendant care expenses at Line 215.). You can also claim both the DTC and up to $5,000 for care at Line 330, as discussed shortly.

Your friend can benefit from the part-time attendant claim. This is a medical expense credit claim as well, made at Line 330 attaching receipts issued by the payee and showing his or her Social Insurance Number.

The person with a disability must qualify for the Disability Tax Credit (T2201) in order to make a part-time attendant care claim. (The General Income Tax Guide 96 makes it clear that only one attendant care claim may be made, and that medical eligibility for the DTC is necessary to make any attendant care claim).
The amounts for attendant care claims must actually have been paid: imputed amounts will not qualify. The maximum claim for 1996 for a part-time attendant care claim is $5,000, so that is what your neighbour can claim. (However, an increased claim of $10,000 is available in the year of death.)

While this is called a "part-time" attendant care claim in the General Income Tax Guide 96, it can also be made by someone who required a full-time attendant for a limited period so long as the total expenditure was not more than $5000. The part-time attendant care claim can be combined with a claim for the Disability Tax Credit, but cannot be combined with a work-related attendant care expenses claim at Line 215, nor with a full-time attendant care claim at Line 330. (As stated above, no two attendant care claims for the same person may be combined).

34. My eight-year-old child has a learning disability. I pay $10,000 annually for her to attend a special school for children with learning disabilities. Is this a claimable medical expense?

My friend's four-year-old child is developmentally handicapped. She goes to an integrated nursery school which advertises itself as making special accommodations for children with disabilities. My friend pays $300/month for her daughter to attend. Can she claim this as a medical expense?

Medical expense claims relating to special programs are often in a "grey area". There is a wordy definition in the Income Tax Act (reproduced in Interpretation Bulletin IT-519R in paragraphs 32 and 33) which permits medical expense claims for fees paid to certain "schools, institutions, or other places" where special "care and training" is given because of the disability of the person. According to paragraphs 32 and 33 of the IT-519R:

32. The costs paid for the care, or the care and training, of a patient at a school, institution or other place will qualify . . . as a medical expense when an appropriately qualified person has certified that patient to be a person who, by reason of a physical or mental impairment, requires the equipment, facilities or personnel specially provided by that place . . . "Other place" includes an out-patient clinic and also includes a nursing home . . .

33. There is no requirement that a nursing home or a detoxification clinic be a public or licensed private hospital. The fact that

An "appropriately qualified person" includes a medical practitioner as well as any other person who has been given the required certification powers under provincial or federal law. A patient (e.g. a dependant) suffering from a behavioural problem arising out of a mental or physical impairment or suffering from a learning disability, including dyslexia, who attends a school that specializes in the care and training of persons who have the same type of problem or disability is considered to qualify . . . and the expenses paid for the patient are qualifying medical expenses even though some part of the expenses could be construed as being tuition fees (see Ranelli v. MNR, 91 DTC 816, [1991] 2 CTC 2040, (TCC)). A patient suffering from an addiction to drugs or alcohol can also qualify.

. . . Consequently, when all the conditions of that paragraph, as discussed above, are met, the expenses paid for the care of the patient in a detoxification clinic qualify as medical expenses. Fees paid for a stop-smoking course or program are not considered to qualify as medical expenses . . . unless, in an exceptional case, such a course or program is part of a patient's medical treatment that is required because of a serious health deterioration problem and that is both prescribed and monitored by a medical practitioner.
the name of a residential establishment sometimes includes the word "school" or "nursery" will not affect the determination of whether it qualifies as a nursing home. While the care need not be full time, it must be stressed that equipment, facilities or personnel specially provided by the nursing home (or other place described in 32 above) must be specifically tailored for the care of persons suffering from the physical or mental impairment in question.

The word "patient" is used in the Interpretation Bulletin (IT-519R) to refer simply to the taxpayer, his or her spouse, and his or her dependants for whom medical expenses may be claimed. It has no particular implications with respect to health status or disability - it just means the person receiving the service.

The reference to the Ranelli case indicates rather clearly that the claim for your child, who is attending a school specifically designed for children with learning disabilities, will likely be allowed. On the other hand, it will be much harder for your friend to argue that the integrated nursery school is "specially tailored" for her child's needs.

You should each contact the schools in question to see how Revenue Canada has dealt with a medical expense claim for its fees by other parents. There does not seem to be a clear and consistent policy articulated in the Interpretation Bulletin.

Even if the nursery school fees are not claimable as a medical expense, you may still be able to claim them as child care expenses depending on your family circumstances. In fact, often it would be more advantageous to do so. If it is possible to claim either way, you should work out the consequences of each alternative.

35. Last year my 7-year-old son was having serious problems with his speech at school. I hired a part-time special education teacher privately to help out, and paid her $1,800 in total for 30 sessions. Can I claim the $1,800 as a medical expense?

and that the other conditions set out in 32 above must be met, for the fees to qualify as medical expenses . . ."

These provisions have been set out almost in their entirety from the Interpretation Bulletin so that the actual language used by Revenue Canada will be clear. It can be seen that these paragraphs allow for a number of interpretations.

I also made private payments of $800 to an occupational therapist and $700 to a physiotherapist for services not funded by the health care system or the educational system. Are these claimable at Line 330 as medical expenses?

Revenue Canada's revised Interpretation Bulletin IT-519R, "Medical Expense and Disability Tax Credits and Attendant Care Expense Deduction", indicates (at paragraph 5) that the list of health professionals recognized as "medical practitioners", for purposes of claiming payments to them as medical expenses, has been expanded.

The list now includes, among other categories, physiotherapists, occupational therapists who are members of the Canadian Institute of Occupational Therapists, and qualified speech-language pathologists or audiologists. In each case, the health professional must be qualified to practice under the laws of the province.

In this example, the physiotherapist and occupational therapist fees would qualify, but the payments to the special education teacher (unless that person also happened to be a qualified speech language pathologist) would not qualify.

36. My wife has multiple sclerosis. She uses a wheelchair part of the day and walks with some difficulty using braces at other times. During 1996, we had our home renovated to make it more accessible. A ramp was put in leading to the front door, the upstairs and downstairs
hallways were widened, the bathroom was made accessible and the kitchen cabinets were lowered.

We also added a room for her to use as a study. Finally, we installed air conditioning in all of the rooms she uses regularly. Can these items be claimed as medical expenses?

There has been progress made over the past number of years by the federal government in recognizing home renovations under the Income Tax Act. Effective with the 1991 taxation year, it was made clear under the legislation and in the General Income Tax Guide 96 that expenses for modifying your home for accessibility are deductible if you, or your spouse or dependant, qualify as having a severe and prolonged mobility impairment.

The Disability Tax Credit, form T2201 must be submitted from your physician to make this claim. All of the accessibility modifications listed should qualify, although it should be documented very clearly by your wife's physician or other health practitioner that the study is clearly for your wife's use primarily.

37. My husband and I have a 9-year-old son who requires treatment for muscular dys-trophy at a specialized medical centre. We drive him there 3 times a week. The centre is 50 kilometres from our home. Can we claim our transportation costs as a medical expense?

Yes, assuming that the specialized treatment was not available at a centre closer to your home. The important consideration is that the centre is more than 40 kilometres from your home. You will have to show, however, that there is no public transportation which would be suitable. (See Interpretation Bulletin IT-519R, paragraphs 34-37, for an outline of what travel and transportation expenses are allowable.).

modifying your home for accessibility are deductible if you, or your spouse or dependant, qualify as having a severe and prolonged mobility impairment.

The Disability Tax Credit, form T2201 must be submitted from your physician to make this claim. All of the accessibility modifications listed should qualify, although it should be documented very clearly by your wife's physician or other health practitioner that the study is clearly for your wife's use primarily.

38. Our 14-year-old daughter has severe epilepsy. She was referred by our doctor in North Bay to the Hospital for Sick Children for a specialized neurological consultation. Both of us spent a week with her in Toronto, flying down and staying in a hotel. Are these allowable medical expenses?

Our daughter spent three days with us at the hotel as well, rather than as an in-patient. Are her hotel expenses and meals claimable as medical expenses? What if she had been an adult and able to travel alone?

Assuming that your daughter is certified by her doctor as unable to travel alone, the transportation, accommodation and meals for one accompanying individual are allowed as medical expenses by Revenue Canada. (As with the previous question, IT-519R should be reviewed). So apparently the expenses for only one parent are covered. Your daughter's expenses are also covered, as they would be if she were an adult and able to travel alone, so long as there is clear documentation that the travel for medical assessment and/or treatment was justified.

39. Last year I was injured in a diving accident and had a major spinal cord injury. Now I use a wheelchair.
I sold my home and bought another (a wheelchair accessible) home in the same neighbourhood.

Can I claim the moving expenses at Line 219? Or are they claimable as medical expenses at Line 330?

The Income Tax Act allows a claim for moving expenses at Line 219 only where the individual has moved at least 40 kilometres closer to his or her workplace or post-secondary educational institution.

So it seems your claim, despite its reasonableness, is not allowable. (However, the federal government announced in the 1997 budget that moving expenses will be claimable in these circumstances beginning with the 1997 taxation year).

Further, the medical expense claim at Line 330 deals only with renovation of an existing home, not expenses associated with purchasing another home for accessibility reasons.

However, ARCH has received information about some cases where Revenue Canada auditors and appeals officers have permitted a deduction for a move to wheelchair accessible premises, even though the "40 kilometre rule" would apparently not permit it.

EDUCATION CREDIT FOR PART-TIME STUDENTS

40. I am a university student studying fine arts. I also have chronic fatigue syndrome. Last year I could only take three courses as a result, whereas a full course load for my program is six courses. Can I claim the education amount at Line 322?

Yes. This is an applicable provision for 1992 and later taxation years. While ordinarily only full-time students can claim the education amount of $100/month (increased in 1996 over $80/month in 1995), students who are part-time because of their disabilities can also make this claim.

The claim is made on Form T2202, the "Education Credit Certificate for Full and Part-Time Students". Part-time students eligible for the Disability Tax Credit make the claim for the education credit simply by checking the appropriate box in Part 2, "Statement by Student". Part-time students not eligible for the Disability Tax Credit may also make the claim, but their physician or optometrist must complete Part 3 of the T2202, "Certification by Physician for Part-Time Students".

CHILD CARE EXPENSE PROVISIONS RELATING TO DISABILITY

41. I am a woman who is working to support a husband with a disability and two children, ages 4 and 8.

My husband used to look after the children as a "househusband", but now he is too disabled to do this, and we have hired a nanny. Can I claim child care expenses at Line 214?

Yes. The child care deduction is usually available only to the lower-income spouse (in this case, your husband) but where that spouse's disability makes him or her incapable of child care, then the higher-income spouse may claim. Obtain Form T778, "Calculation of Child Care Expenses Deduction for 1996" which must be submitted, as well as the "Child Care Expenses
This Information Sheet for 1996". (Both are available from Revenue Canada).

Basically, given the ages of your children you may claim up to $8,000 annually in actual child care expenses up to a maximum of 2/3 of your "earned income" (income from employment or business). There is also a limit, however, of $150/week for a child who is under 7 or eligible for the DTC, and $90/week for a child 7 to 16, or older if "infirm". This weekly limit would apply if your husband were disabled for only part of 1996.

42. My child is 17 but requires child care because of a disability. Can I still claim child care expenses for her?

Yes. Your physician should fill out Form T2201, the Disability Tax Credit certificate. When
In either case, you will have to be otherwise eligible: i.e., if there are two spouses, the lower-income spouse must claim the child care expenses for periods when he or she was working or in a training course. See Line 214 in the General Income Tax Guide 96 for more details.

ONTARIO TAX REDUCTION

43. I heard about an "Ontario Tax Reduction". What is it?

The Ontario Tax Reduction Program is designed to eliminate or reduce income tax for Ontario taxpayers with low to moderate incomes. It only applies to Ontario provincial tax, the basic rate for which is 56% of the federal tax. It is calculated on the pink form called "Ontario Income Tax", T1C (Ont.) TC-1996.

The basic idea is that a "personal reduction" is calculated by each taxpayer. Everyone gets a basic personal reduction of $198. Then $382 is added for each dependent child born in 1978 or later - i.e., under 18 (essentially, you can make this claim if your child lived with you in Canada in 1996).

A further $382 is added for each disabled dependant (whom you or your spouse claimed at Lines 305, 306 or 318, or a spouse for whom you claimed a transfer of the DTC at Line 326 using Schedule 2 - note that transfer of the DTC is sufficient to qualify for the "personal reduction"). The sum of all these amounts ($198 + $382 per child + $382 per disabled dependant) is the taxpayer's "personal reduction".

This "personal reduction" is then compared with the taxpayer's Ontario tax (as explained on the pink "Ontario Income Tax" form). If the "personal reduction" is greater than the Ontario tax, no Ontario tax is payable at all. (The taxpayer may still have federal tax to pay.)

If the "personal reduction" is smaller than the Ontario tax, there may still be a reduction in Ontario tax. The formula used to calculate any reduction is:

\[(3 \times \text{"personal reduction"}) - (2 \times \text{Ontario tax})\]

44. My daughter who has cerebral palsy is 11. Her physician has completed the T2201 disability credit certificate and has certified her as eligible. When I come to complete the Ontario Income Tax form for the Ontario Tax Reduction, can I make two $382 claims for her, once as a dependent child and
once as a dependant with a disability?

Perhaps surprisingly, the answer is yes. It is clear on the "Ontario Income Tax" form that you can make two claims for a dependent child who has a disability.

45. I am a taxpayer with a disability. Can I claim $382 as an additional "personal reduction" under the Ontario Tax Reduction program?

Perhaps surprisingly, the answer is no. There is no additional tax reduction for taxpayers with disabilities, only for taxpayers with dependants who have disabilities.

**CLAIMING FOR PREVIOUS YEARS**

46. Can I go back and claim items I missed for previous years? What do I do?

If you have not made a claim, such as for the Disability Tax Credit or for medical expenses, under the rules for previous years you can still go back as far as the 1985 taxation year (see page 7 in General Income Tax Guide 96). You can use Form T1-ADJ, "T1 Adjustment Request" for this purpose.

You may write to Revenue Canada giving your social insurance number, the telephone number where you can be reached during the day, the details of the changes you believe should be made, the years you are applying for and the supporting documentation (such as the T2201 if
the claim is for the DTC - in this case it is important that the physician indicate clearly the date the disability began). If you have filed returns for the years in question, you should not attempt to file new returns.

If the claim for previous years is for the Disability Tax Credit, and you are claiming for the present year as well, you can get your physician to photocopy the T2201, and put an original signature on each copy. Then, one copy can be mailed with your 1996 return, and one with your letter.

It probably makes sense to contact your Tax Services Office to discuss the problem informally with them before submitting extensive documentation. It seems clear that Revenue Canada may well scrutinize a retroactive claim for several years, for example for the DTC or medical expenses, much more closely than a "new" claim which just applies to the 1996 taxation year. A retroactive claim going back several years will presumably have to be very well documented in order to be accepted.

However, in a clear case of eligibility you should not hesitate to claim back for all of the years from 1985 on for which you were eligible to make the claim.

**APPEALS**

47. **If a claim is disallowed, what can I do?**

You have 90 days from the date on the reassessment notice to file a Notice of Objection. A Notice of Objection is a one-page form which you can get at the District Taxation Office. The Notice of Objection is sent in by registered mail.

If you are getting near the end of the 90-day period, send in the Notice of Objection at once. Additional documentation may be submitted later. You should probably consult with a tax adviser, if possible, before filling in the Notice of Objection.

If you miss the 90-day period, you may be able to get an extension from Revenue Canada or ultimately from the Tax Court, but this is not guaranteed. While your appeal is going ahead, it is best to pay the tax bill in dispute if possible, to avoid interest penalties. This will not jeopardize your case.

If you are still unsuccessful, there is a further appeal to the Tax Court of Canada, and in rare cases to the Federal Court of Canada and the Supreme Court of Canada. The Tax Court of Canada has an "informal" appeal procedure for this type of case (where the federal tax payable is less than $12,000, where taxpayers may represent themselves or appear through an agent. (See Question 12 above for a discussion of DTC appeal cases in the Tax Court of Canada.)

In the Federal Court or Supreme Court, of course, it is very difficult to proceed without legal counsel.

If you are your family has been re-assessed retroactively with respect to the Disability Tax Credit, and Revenue Canada is requesting repayment for more than one year or for a year before the most recent tax year, you should write to the Chief of Appeals at your local Tax Services Office, in accordance with a policy stated to ARCH last year by federal Revenue Minister, the Honourable Jane Stewart (see Question 12 for more details).
Programs/Resources

New Certificate Program. The Canadian Hearing Society in partnership with York University and its Schulich School of Business is offering a new certificate program. This program is designed for managers working in the non-profit sector serving deaf, deafened and hard of hearing people. Following are the Course which will be provided.

- Organizational Leadership
  Focus: how to create and support productive organizational cultures

- Program and Outcome Evaluation
  Focus: How to develop the tools that effectively measure results, ensure quality and protect funding.

- Marketing, Fundraising and Financial Management
  Focus: How to decrease financial dependence on government grants and how to become more business-like.

- Strategic Management
  Focus: How to balance effective strategy-making with organizational structure, culture, change-ability and the environment.

For more information, contact Human Resources, The Canadian Hearing Society, 271 Spadina Rd., Tor, ON, M5R 2V3 (416) 928-2515 (voice), 928-2516 (tty), 928-2517 (fax) email: j Lange@chs.ca

Roeher Institute Programs/Workshops. The Roeher Institute has organized a series of educational forums.

- Educational Workshop Series (Spring)
  - School and Classroom Strategies that Support Inclusion
  - Out of Harm's Way
  - Employment-Everybody's Business
  - The Right to Decide

- Research in Disability and Public Policy (Aug 7-9)

- Best Practices for Inclusion (Aug 10-14)
  INFO: The Roeher Institute, Kinsmen Building, York Univ., 4700 Keele St., North York ON, M3J 1P3, (416) 661-9611 (tel), 661-2023 (tty), 661-5701 (fax), 1-800-856-2207; email: roher@yorku.ca; web pg is http://indie.ca/roher

Events

Let's Do Something Together. The Ontarians with Disabilities Act has organized a "Community Action Lab" to protest wheel-trans and other cutbacks, user fees for drugs, and the lack of progress in enacting an Ontarians with Disabilities Act.

WHO: People with disabilities, friends, families, professionals, anyone who shares these concerns-no previous political experience required!
WHAT: "Community Action Lab" - work with the ODA Committee to write letters, make calls, send faxes, learn about lobbying and getting the politicians moving.
WHERE: CNIB auditorium on 1st floor, 1929 Bayview, fully accessible, free parking behind building, ASL interpreters and attendant care services provided.
WHEN: Saturday, April 12, 2-5pm
INFO: Steve Kean, 416-979-5514 or Deborah Thynn at TTY 416-964-0023, ext.251.

Temple Grandin.

Giant Steps Toronto presents Temple Grandin, author of Emergence: Labelled Autistic", and Thinking in Pictures: and other reports from My Life with Autism.

WHEN: May 20
WHERE: Walter Hall, 80 Queen's Park (behind the McLaughlin Planetarium), 6:30pm
INFO: 416-224-5628; email: alemev@aol.com

All proceeds in support of Giant Steps Toronto.
**People In Motion.** Come to the 8th annual People In Motion, Canada's premier event for persons with disabilities, health care and rehabilitation professionals and seniors with disabilities. More than 150 exhibits, including computers and technical aids for learning disabilities, speech, sight and hearing disabilities. Displays by major corporations featuring special products and services and in some cases, employment information.

People In Motion will also feature Canada's largest display of adapted cars and vans. Try out dozens of different types of wheelchairs, scooters, lifts and ramps before you buy. View the latest in barrier-free design, home health care products, sports and recreation, accessible vacations, exercise equipment, rehabilitation services and government programs.

WHEN: June 6 - 10am-8pm; June 7 - 10am-5pm. Free, Fully Accessible, Attendant Services provided, Ample parking.

INFO: (905) 455-4141 or fax (905) 455-4262.

**A Humorous New Booklet on Creative Wheelchair Repairs.** A unique publication has recently become available. Written, designed and published by Gerianne B. Van Vugt, *Is That Wheelchair Really Dead? Gerianne's Humorous (and Useful) Little Booklet on Creative Wheelchair Repairs* provides many helpful tips for doing home wheelchair repairs, using commonly available items.

Along with this booklet, a little imagination (and perhaps some technical ability) is all that is required to save countless dollars on wheelchair repairs and servicing. Written in a collection of humorous short stories, this booklet is also designed to lift the reader's spirits. In order to promote this booklet and her writing, Gerianne has developed a site on the Web:

http://www.successfx.com/diskspace/gerianne

*Is That Wheelchair Really Dead?...* can be ordered by sending $9.95 in Canadian funds plus shipping ($2 in Can., $3 in U.S., $5.50 all other areas) to Gerianne B. Van Vugt, 41 Earle Dr., Pasadena, Newfoundland, A0L 1K0.
Read The Magazine
That Defends The Rights
Of People With DisAbilities

<table>
<thead>
<tr>
<th>The Disability Rights Magazine</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes! I want to keep current on issues affecting the disability community!</td>
</tr>
<tr>
<td>Please subscribe me for 1 year (6 issues)</td>
</tr>
</tbody>
</table>

- Individual/Households: $15
- Orgns/Groups: $25
- Outside Can: add $5

Name ____________________________ Organization
Address __________________________
City _____________________________ Prov. ___________________ P.C. ___________________

New ☐  Renewal ☐  Bill Me ☐  Payment Enclosed ☐
Print ☐  Cassette ☐  Disk ☐  Large Print ☐

I would like to make a donation to ARCH (Charitable registration # 0566877-59-13) ☐
$________. Thank you for your contribution.

ARCH, A Legal Resource Centre for Persons with Disabilities
255-40 Orchard View Blvd.
Toronto ON M4R 1B9
[416] 482-8255 (voice) 482-1254 (TTY) 482-2981 (fax)
email: arch@indie.ca; web page: http://www.indie.ca/arch