



IT-519R2 - Medical Expense and Disability

INTERPRETATION BULLETIN

SUBJECT: INCOME TAX ACT DATE: April 6, 1998

**Medical Expense and Disability
Tax Credits and Attendant Care
Expense Deduction**

NO.: IT-519R2

REFERENCE:

Sections 64, 118.2, 118.3 and 118.4 (also sections 64.1, 118, 118.7 and 118.8; subsections 6(16) and 117(2) and paragraph 117.1(1)(b) of the Income Tax Act and section 5700 of the Income Tax Regulations)

Discussion and Interpretation

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General comments

Interpretation bulletins (ITs) provide Revenue Canada's technical interpretations of income tax law. Due to their technical nature, ITs are used primarily by departmental staff, tax specialists, and other individuals who have an interest in tax matters. For those readers who prefer a less technical explanation of the law, the Department offers other publications, such as tax guides and brochures.

While the ITs do not have the force of law, they can generally be relied upon as reflecting the Department's interpretation of the law to be applied on a consistent basis by departmental staff. In cases where an IT has not yet been revised to reflect legislative changes, readers should refer to the amended legislation and its effective date. Similarly, court decisions subsequent to the date of the IT should be considered when determining the relevancy of the comments in the IT.

An interpretation described in an IT applies as of the date the IT is published, unless otherwise specified. When there is a change in a previous interpretation and the change is beneficial to taxpayers, it is usually effective for all future assessments and reassessments. If the change is not favourable to taxpayers, it will normally be effective for the current and subsequent taxation years or for transactions entered into after the date of the IT.

A change in a departmental interpretation may also be announced in the Income Tax Technical News.

If you have any comments regarding matters discussed in this IT, please send them to:

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Income Tax Rulings and Interpretations Directorate

Policy and Legislation Branch
Revenue Canada
25 Nicholas Street
Ottawa ON K1A 0L5

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Application

This bulletin cancels and replaces Interpretation Bulletin IT-519R dated February 20, 1995. Unless otherwise indicated, the provisions outlined below have been in effect since at least January 1, 1995.

Summary

The medical expense tax credit, the disability tax credit and the attendant care expense deduction all provide tax relief for individuals. The medical expense tax credit applies to individuals who have sustained significant medical expenses for themselves or certain of their dependants. The disability tax credit applies to individuals who have a "severe and prolonged mental or physical impairment" or for individuals who support certain dependants with such an impairment. The attendant care expense deduction is available to individuals who are entitled to claim the disability tax credit and who have incurred expenses for personal care that are necessary to enable them to work.

An individual may claim a non-refundable tax credit for medical expenses (referred to in this bulletin as the "medical expense tax credit") when calculating Part I tax payable. The amount of the medical expense tax credit is determined by multiplying the lowest personal tax rate percentage (17% in 1997) by the amount of qualifying medical expenses in excess of certain minimum amounts. An individual may be entitled to receive a refundable medical expense tax credit in respect of the same medical expenses for which a medical expense tax credit was claimed.

An individual who has a severe and prolonged mental or physical impairment as certified by an appropriate medical practitioner may claim a non-refundable "disability tax credit" when calculating Part I tax payable. The amount of the disability tax credit is determined by multiplying the lowest personal tax rate percentage by \$4,233 (for 1997). In addition, any unused portion of the individual's disability tax credit may be transferred to the individual's spouse or to a "supporting individual."

A person entitled to a disability pension under the Canada or Quebec Pension Plan or under an insurance policy is not necessarily entitled to a disability tax credit under the Income Tax Act.

Individuals with a disability entitling them to the disability tax credit may also claim, under certain conditions, a deduction in computing net income for amounts paid for attendant care enabling them to earn certain types of income. The maximum amount that may be claimed as a deduction is \$5,000; however, see the note following 70 below.

When a medical expense or disability tax credit relates to a non-resident or a part-year resident, please refer to the current versions of IT-171, Non-Resident Individuals - Computation of Taxable Income Earned in Canada and Non-Refundable Tax Credits, or IT-193, Part-Year Residents - Computation of Taxable Income and Non-Refundable Tax Credits.

Severe and Prolonged Impairment

2. Subsection 118.4(1) contains a set of rules that define certain terms for purposes of the section 118.3 disability tax credit and section 118.2 medical expense tax credit. There will be subsequent references back to this paragraph when applicable. Subsection 118.4(1) provides the following rules:

(a) An impairment is prolonged when 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 when the individual is blind or is unable (or requires an inordinate amount of time) to perform such an activity, all or substantially all of the time, even with therapy and the use of appropriate devices and medication.

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

- (i) perceiving, thinking and remembering;
- (ii) feeding or 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
- (vi) walking.

(d) No other activity including working, housekeeping or a social or recreational activity is considered a basic activity of daily living.

(a) above describes an impairment as being prolonged if it is expected to last for at least 12 months. This "expectation" test is applied at the time the disability begins. However, a claim will not be denied solely because the person dies within the 12 month period.

In (b) above, an individual is viewed as being "markedly restricted" in performing a basic activity of daily living when the individual is restricted for at least 90% of the time. When the individual's ability to perform such an activity is not restricted for at least 90% of the time, the individual may be viewed as not being "markedly restricted."

In (b) above, it is a question of fact as to what is "an inordinate amount of time" for performing an activity; however, to meet the requirement that the activity takes an inordinate amount of time, the activity must take significantly more time than would be taken by an average person not afflicted with the impairment.

In addition to blindness, examples of other disabling conditions that could satisfy the rules discussed above are severe cardio-respiratory failure, severe mental impairment, profound bilateral deafness, and functional impairment of the neuro- or musculo-skeletal systems. Disabling ailments and conditions must generally be considered on a case-by-case basis, since it is the effect of the impairment on the ability to perform the activities of daily living, which effect differs between individuals, rather than the ailment or condition itself, which determines whether an individual is eligible for the disability tax credit.

References to Medical Professionals

3. This bulletin uses the terms "medical doctor," "medical practitioner," as well as various other terms to describe individuals involved in the medical profession, in a way that is consistent with the terms found in the Income Tax Act. The term "medical doctor" is used in section 118.3 for purposes of the disability tax credit. Section 118.2, on the other hand, uses the term "medical practitioner" for purposes of the medical expense tax credit. "Medical practitioner" encompasses a broad range of individuals in the medical profession (see 4 below).

4. For purposes of the medical expense and disability tax credits under sections 118.2 and 118.3, subsection 118.4(2) provides that a reference to a medical practitioner, dentist, pharmacist, nurse or optometrist means a person who is authorized to practice as such according to the following laws:

- (a) for a service rendered to an individual, the laws of the jurisdiction in which the service is rendered;
- (b) for a certificate issued for an individual, the laws of the jurisdiction in which the individual resides or of a province; and
- (c) for a prescription issued to an individual, the laws of the jurisdiction in which the individual resides, of a province or of the jurisdiction in which the prescription is filled.

Medical practitioners authorized to practice in accordance with the above laws can include (depending on the applicable province or jurisdiction, as the case may be) the following:

- (i) an osteopath;
- (ii) a chiropractor;
- (iii) a naturopath;
- (iv) a therapist (or therapist);
- (v) a physiotherapist;
- (vi) a chiropodist (or podiatrist);
- (vii) a Christian Science practitioner;
- (viii) a psychoanalyst who is a member of the Canadian Institute of Psychoanalysis or a member of the Quebec Association of Jungian Psychoanalysts;
- (ix) a psychologist;
- (x) a qualified speech-language pathologist or audiologist such as, for example, a person who is certified as such by The Canadian Association of Speech-Language Pathologists and Audiologists (CASLPA) or a provincial affiliate of that organization;
- (xi) an occupational therapist who is a member of the Canadian Association of Occupational Therapists;
- (xii) an acupuncturist;
- (xiii) a dietician; and
- (xiv) a dental hygienist.

Additionally, a "nurse" includes a practical nurse whose full-time occupation is nursing as well as a Christian Science nurse authorized to practice according to the relevant laws referred to in subsection

118.4(2).

Note: Bill C-28 was given First reading in the House of Commons on December 10, 1997. Bill C-28, if enacted as proposed, will amend subsection 118.4(2) to include audiologists, after February 18, 1997, and medical doctors, for taxation years that end after November 1991.

Disability Tax Credit

5. Subsection 118.3(1) provides the formula for determining the disability tax credit for an individual who has a severe and prolonged mental or physical impairment (referred to in this bulletin as the "person with a disability"). Under the formula, the disability tax credit for a particular year is determined by taking a fixed amount (which will increase from one taxation year to the next each time there is an annual indexation adjustment) and multiplying that amount by the lowest tax rate percentage referred to in subsection 117(2). For 1997, the disability tax credit is 17% of \$4,233 = \$720. For a taxation year other than 1997, the fixed amount and the lowest tax rate percentage can be found in the General Income Tax Guide for that year.

6. Subsection 118.3(1) also requires that the effects of the severe and prolonged mental or physical impairment of the person with a disability be such that his or her ability to perform a basic activity of daily living is markedly restricted. This must be certified in prescribed form by a medical doctor, or if the impairment is an impairment of sight, a medical doctor or an optometrist. (See the proposed amendment described below.) Form T2201, Disability Tax Credit Certificate, must be used for this purpose and filed with the income tax return of the person who is claiming the credit. The form will be reviewed to determine if the person with a disability is eligible for the disability tax credit before the income tax return is assessed. For this reason, the income tax return should not be electronically filed for the first year in which the disability tax credit is claimed. If the impairment is permanent, it is not necessary to file another Form T2201 in later years unless the circumstances change or unless the form is requested. If the impairment is temporary, a new form must be submitted if the period stated on the certificate has ended. See 2 above regarding the meanings of "prolonged," "basic activity of daily living" and "markedly restricted."

A person may be entitled to a disability pension under the Canada or Quebec Pension Plan, under workers' compensation legislation or under a private insurance arrangement but may not be entitled to claim the disability tax credit. For example, under the Canada Pension Plan a disability is severe if the person "is incapable regularly of pursuing any substantially gainful occupation." By contrast, for purposes of the disability tax credit, an impairment is severe if the person's ability to perform a basic activity of daily living is markedly restricted.

Note 1: Bill C-28 was given First reading in the House of Commons on December 10, 1997. Bill C-28, if enacted as proposed, will amend paragraph 118.3(1)(a.2) to permit a person authorized to practice as an audiologist to certify, after February 18, 1997, the existence of a severe and prolonged hearing impairment for the purpose of the disability tax credit.

Note 2: As part of the Federal Budget of February 24, 1998 a Notice of Ways and Means Motion to Amend the Income Tax Act was tabled in the House of Commons. One of the proposed amendments provides that after February 24, 1998 for the purposes of the disability tax credit, persons authorized to practice as

(a) occupational therapists be allowed to certify the existence of a severe and prolonged

impairment with respect to an individual's ability to walk or to feed and dress himself or herself, and

(b) psychologists be allowed to certify the existence of a severe and prolonged impairment with respect to an individual's ability to perceive, think and remember.

7. Neither the disability tax credit outlined in 5 above nor the transfer of the disability tax credit outlined in 8 to 10 below may be claimed if the cost of nursing home care or remuneration for an attendant (subject to one exception, mentioned in 27 below) for the person with a disability is included as a qualifying medical expense under section 118.2 in calculating a medical expense tax credit of the person with a disability or of any other person.

8. Under certain circumstances, the unused portion of the disability tax credit of a person with a disability who is resident in Canada at any time in the year may be transferred under subsection 118.3(2) to another individual (the "supporting individual") who supports the person with a disability. Such a transfer may be made if one of the following conditions apply:

(a) The supporting individual has claimed in respect of the person with a disability

- (i) an equivalent-to-spouse tax credit or
- (ii) a dependant tax credit, if the person with a disability is the supporting individual's child or grandchild.

(b) The supporting individual could have claimed a personal tax credit described in (a) above (where the person with a disability is the supporting individual's parent, grandparent, child or grandchild) if the supporting individual were not married and the person with a disability had no income for the year and was 18 or more years old before the end of the year.

For a discussion of the equivalent-to-spouse tax credit and dependant tax credit, see the current version of IT-513, Personal Tax Credits.

9. The amount of disability tax credit that may be transferred to and claimed by the supporting individual under subsection 118.3(2) is

- the amount that the person with a disability may claim for the year as a disability tax credit under subsection 118.3(1) in excess of
- the person's Part I tax payable determined before deducting any tax credits except the personal, age and pension tax credits under section 118 and the tax credit under section 118.7 for employment insurance premiums and for Canada and Quebec Pension Plans contributions.

When more than one individual is entitled under subsection 118.3(2) to deduct a tax credit transferred from the same person with a disability for a taxation year, subsection 118.3(3) limits the total of all such deductions for that year to the maximum amount that could be claimed by one individual for that year if that individual were the only one entitled to use subsection 118.3(2) to claim a tax credit transferred from that person with a disability. If the individuals fail to agree on the portions to be claimed, the Minister may fix the portions.

If a spouse of a person with a disability claims any non-refundable tax credit in the year for the person

with a disability under section 118 or 118.8 (that is, any personal tax credit for the person with a disability or any tax credit transferred from the person with a disability), a third person will not be entitled to a subsection 118.3(2) transfer of a disability tax credit from the person with a disability for the same year, even if that third person qualifies as a "supporting individual" of the person with a disability.

10. Section 118.8 allows one spouse to transfer to the other spouse certain unused tax credits, including the unused portion of the transferring spouse's disability tax credit (if any). The amount that may be claimed as a tax credit under section 118.8 is determined by the following formula:

$$A + B - C$$

where

- A** is the total of the amounts that the transferring spouse may claim for the year as tuition and education tax credits (up to a combined maximum of \$680 for 1995 and \$850 thereafter).
- B** is the total of the amounts that the transferring spouse may claim for the year as age, pension and disability tax credits.
- C** is the transferring spouse's Part I tax payable determined before deducting any tax credits other than the basic personal tax credit and the tax credits under section 118.7 for premiums for employment insurance and contributions under the Canada and Quebec Pension Plans.

For purposes of the Income Tax Act, the "spouse" of a taxpayer includes a person of the opposite sex who is cohabiting with the taxpayer at the time in a conjugal relationship if relevant conditions in subsection 252(4) are met.

A claim under section 118.8 cannot be made by an individual for a spouse if he or she were living separate and apart from that spouse at the end of the year and for a period of 90 days commencing in the year because of a breakdown of their marriage.

Medical Expense Tax Credit

11. An individual may deduct a medical expense tax credit determined by the formula under subsection 118.2(1). Under the formula, assuming there is no adjustment as described in 17 below, the allowable portion of the qualifying medical expenses claimed is the portion of those expenses that exceeds the lesser of the following two amounts: a fixed amount (\$1,614 for 1997-this will increase in subsequent years each time there is an annual indexation adjustment), or 3% of the individual's net income for the year. The allowable portion of the expenses is multiplied by the lowest tax rate percentage for the year (17% for 1997) to determine the medical expense tax credit. For example, assume that an individual, whose net income for 1997 is \$50,000, incurs \$5,000 of qualifying medical expenses. Since 3% of \$50,000 = \$1,500 is less than the 1997 fixed amount of \$1,614, the individual's medical expense tax credit is 17% of (\$5,000 - \$1,500) = \$595. For a taxation year other than 1997, the fixed amount and lowest tax rate percentage can be obtained from the General Income Tax Guide for that year. Forward averaged amounts included in taxable income under subsection 110.4(2) do not form part of an individual's net income upon which the 3% calculation is based. However, 1997 is the last taxation year for which the forward

averaging calculations are relevant.

12. To qualify for the medical expense tax credit, the medical expenses must have been paid or deemed to have been paid (see 66 below) by either the individual or his or her legal representative for qualifying medical expenses as provided for in subsection 118.2(2) (see 19 below). Furthermore, the medical expenses used in calculating a medical expense tax credit for a particular taxation year:

- (a) must have been paid within any 12-month period ending in the calendar year, unless the individual died in the year; in which case, the medical expenses must have been paid within any 24-month period that includes the date of death (see 18 below);
- (b) must be proven by filing supporting receipts (see 68 below);
- (c) must not have been used in calculating a previous year's medical expense tax credit; and
- (d) must not have been reimbursed or be reimbursable (see 67 below).

13. An individual's qualifying medical expenses are not restricted to those incurred or paid in Canada but they must have been paid on behalf of the individual, the individual's spouse or a dependant (see 14 below) of the individual. The word "patient" is used in the law and throughout this bulletin to refer to the individual or to the individual's spouse or dependant, as the case may be, on whose behalf the individual's qualifying medical expenses are paid.

14. For purposes of the medical expense tax credit, a person qualifies as a "dependant" of the individual for a particular taxation year if all the following conditions are met:

- (a) The person is the child, grandchild, parent, grandparent, brother, sister, uncle, aunt, niece or nephew of the individual or of the individual's spouse.
- (b) The person is dependent on the individual for support at some time in the year.
- (c) The person is a resident of Canada at some time in the year. This residence requirement does not apply if the person is the child or grandchild of the individual or of the individual's spouse.

15. If a medical expense was incurred in one year on behalf of a spouse or dependant but is not paid until the following year at a time when such person is no longer a spouse or a dependant, the expense can nevertheless qualify in the year of payment since the person referred to is only required to have been a spouse or a dependant at the time the expense was incurred.

16. An individual may claim 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 either spouse is considered acceptable for a medical expense of either, and the amount of that expense may be used by either, as agreed between them.

17. An adjustment must be made to the individual's medical expense tax credit if the medical expenses claimed include those paid on behalf of a "dependant" (the term "dependant" is explained in 14 above and does not include the individual's spouse) and the dependant has net income for the year which exceeds the "basic personal amount." (The basic personal amount is the base for calculating paragraph (c) of the

description of B in subsection 118(1)-the individual tax credit. It is \$6,456 for 1997 and will increase in subsequent years each time there is an annual indexation adjustment.) In the situation described above, there are two ways of calculating the adjustment. The first way is to follow the formula as described in D of subsection 118.2(1), which provides that the medical expense tax credit, as calculated in the manner described in 11 above, must be reduced by 68% of the excess of the dependant's net income over the basic personal amount. In the example in 11 above, in which the individual has net income for 1997 of \$50,000 and claims qualifying medical expenses for that year of \$5,000, the individual's medical expense tax credit would generally be 17% of $(\$5,000 - \$1,500) = \$595$. Assume also, however, that the \$5,000 in medical expenses claimed by the individual includes \$4,000 paid on behalf of a dependant whose net income is \$7,000. The formula in subsection 118.2(1) requires that the \$595 tax credit be reduced by 68% of $(\$7,000 - \$6,456) = \$370$. The reduced medical expense tax credit would therefore be $\$595 - \$370 = \$225$. The second way of calculating the adjustment is to reduce the qualifying medical expenses claimed by four times the excess of the dependant's net income over the basic personal amount. In the above example, the reduction to the qualifying medical expenses claimed would be $4 \times (\$7,000 - \$6,456) = \$2,176$. The individual's medical expense tax credit would therefore be calculated as 17% of $(\$5,000 - \$1,500 - \$2,176) = \225 . Using the latter method makes it easier to determine whether it is to the individual's benefit to claim the medical expenses paid on behalf of the dependant. In the above example, if the dependant's net income was \$8,000 instead of \$7,000, the reduction to the medical expenses claimed would be $4 \times (\$8,000 - \$6,456) = \$6,176$. Since this reduction would be more than the \$4,000 expenses paid on behalf of the dependant, it would not be to the individual's benefit to claim those expenses.

Medical Expenses Paid Subsequent to the Death of an Individual

18. If the legal representative of a deceased individual has filed a return for the year of death and has subsequently (but within the time period specified for a deceased individual in 12(a) above) paid additional medical expenses, an adjustment in qualifying medical expenses and in the medical expense tax credit will be made, if requested, to reflect such payments.

Qualifying Medical Expenses

19. Subsection 118.2(2) describes in detail the types of medical expenses that may qualify for the medical expense tax credit. Some of these expenses are described in the following paragraphs.

Payments to medical practitioners, hospitals, etc.

20. Paragraph 118.2(2)(a) allows an individual to include, as a qualifying medical expense, an amount paid to a medical practitioner (see 4 above), dentist or nurse or a public or licensed private hospital for medical or dental services provided to the patient (for the meaning of "patient," see 13 above). The rules for determining whether a person is a medical practitioner, dentist or nurse for purposes of the medical expense tax credit are discussed in 4(a) to (c) above. Also shown in 4 above is a list of certain types of medical practitioners that (depending on the applicable province or jurisdiction) may meet these rules. Although some of the medical practitioners in that list are not doctors, their fees can qualify as being "for medical services," for purposes of a claim under paragraph 118.2(2)(a), to the extent that the fees are for diagnostic, therapeutic or rehabilitative services.

21. Payments made to partnerships, societies and associations for medical services rendered by their employees or partners are qualifying medical expenses as long as the person who provided the service is a

medical practitioner, dentist or nurse authorized to practice in accordance with the laws discussed in 4(a) to (c) above. For example, the Arthritis Society employs physiotherapists to provide medical services to persons suffering from arthritis and rheumatism. Payments made to that society for the services of such employees are qualifying medical expenses. Other similar organizations are the Victorian Order of Nurses and The Canadian Red Cross Society Home Maker Services. Payments qualify only to the extent that they are for the period when the patient is at home. Payments for a period when the nurse is simply looking after a home and children when the patient is in hospital or otherwise away from home do not qualify since these would be personal or living expenses. In some instances, such as that of the Canadian Mothercraft Society, the visiting worker instead of the society may give the receipts but, if the worker can be regarded as a practical nurse, those receipts will be accepted.

22. If there is doubt as to whether an institution is a licensed private hospital (see 20 above), a Revenue Canada tax services office should be contacted for an opinion on the matter. Individuals should not rely on the name of the institution, since some hospitals do not have the word "hospital" in their official title. Possession of a municipal licence to carry on business does not necessarily qualify the institution. However, if the institution possesses a provincial licence designating it as a "hospital," subject to its meeting and maintaining standards set by local health, building and fire authorities, the institution may qualify as a hospital for income tax purposes.

23. When an institution is situated in another country and there is doubt as to whether it qualifies for purposes of the Act, the individual should obtain full particulars of the state or other licence under which it operates. The individual should also obtain details of the professional qualifications of the medical staff in attendance and of the medical or remedial care given to the patient to whom the expense relates. Doubtful cases may be referred, with full particulars, to any Revenue Canada tax services office.

Care of individual with mental or physical impairment

24. Paragraph 118.2(2)(b) allows an individual to include, as a qualifying medical expense, remuneration paid for one full-time attendant for a patient who has a severe and prolonged mental or physical impairment (see 2 above), or the cost of full-time care in a nursing home (see 31 below) for such a patient. The patient on whose behalf these medical expenses are paid must be a person with a disability for whom a disability tax credit could be claimed (that is, either by the person with a disability or by some other person, in accordance with the rules outlined earlier in this bulletin) for the taxation year in which these medical expenses were incurred if it were not for the rule described in 27 below. Also, for purposes of the medical expense tax credit, paragraph 118.2(2)(b) provides that, at the time the remuneration is paid, the full-time attendant cannot be under 18 years of age or be the individual's spouse.

The expression "one full-time attendant" is not intended to mean one attendant only looking after the patient on a continuous basis but rather several attendants could be utilized over a specific period of time so long as there is only one attendant for any given period of time.

The use of the expression "full-time care in a nursing home" is not intended to place a requirement of a minimum time spent caring for the patient but rather it implies the constant care and attendance required by an individual by reason of the injury, illness or affliction of the individual. To provide such care there must be appropriately qualified medical personnel in attendance in sufficient numbers on a 24-hour basis.

25. Paragraph 118.2(2)(b.1) allows an individual to include, as a qualifying medical expense, remuneration paid for attendant care in Canada of a patient who has a severe and prolonged mental or physical impairment (see 2 above). The claim for these expenses cannot be more than \$5,000 (\$10,000 if

the patient died in the year). At the time the remuneration is paid, the attendant must not be under 18 years of age or be the individual's spouse. The patient must be a person with a disability for whom a disability tax credit can be claimed (that is, either by the person with a disability or by another person) for the taxation year in which the attendant care is given. The individual must file receipts (see 68 below), issued by the payee, for payment of remuneration for the attendant care. If the payee is an individual, such receipts should include that individual's social insurance number. It should be noted that remuneration paid for the attendant care of the patient cannot be claimed under paragraph 118.2(2)(b.1) if, for the taxation year in which that remuneration is paid, a section 63 child care expense deduction or a section 64 attendant care expense deduction (see 69 to 72 below) is claimed for the patient or if medical expenses paid on behalf of the patient are claimed (for purposes of calculating a medical expense tax credit) under paragraph 118.2(2)(b) as described above or under paragraphs 118.2(2)(c), (d) or (e) as described in 28 to 31 below. While most claims under paragraph 118.2(2)(b.1) will be for a part-time attendant, a full-time attendant could also be claimed under that provision (as long as the above-mentioned dollar limit is observed) in order not to prevent a claim for the disability tax credit (see 27 below).

"Attendant care" is care provided by an attendant who performs those personal tasks which the person with a disability is unable to do for himself or herself. Depending on the situation, such tasks could include meal preparation, maid and cleaning services, transportation, and personal services, such as banking and shopping. "Attendant care" would also include providing companionship to the person with a disability. However, if a person is employed to do a specific task, for example, provide maid and cleaning services or transportation services, the provision of such a service would not be viewed as "attendant care."

Note: Bill C-28 was given First reading in the House of Commons on December 10, 1997. Bill C-28, if enacted as proposed, will amend paragraph 118.2(2)(b.1) to increase, for 1997 and later years, the maximum amount of paid remuneration for part-time attendant care eligible for the medical expense tax credit to \$10,000 (from \$5,000) and to \$20,000 (from \$10,000) if the individual dies in the year.

26. Amounts that are actually paid to an attendant for salary or remuneration as well as the employer's portion of Employment Insurance premiums and Canada or Quebec Pension Plan contributions will qualify as medical expenses under paragraph 118.2(2)(b), (b.1) or (c). Imputed salary or remuneration will not qualify since no actual payment is made.

27. As noted in 7 above, when an individual includes, as a qualifying medical expense, remuneration for an attendant or the cost of nursing home care for a patient (as described in paragraphs 118.2(2)(b), (c), (d), and (e)-24 above and 28 to 31 below) neither that individual nor any other person may claim the disability tax credit or its transfer referred to in 5 and 8 to 10 above for that patient. As an exception to this rule, the disability tax credit can still be claimed if remuneration for an attendant is claimed under paragraph 118.2(2)(b.1), which is subject to a dollar limit (see 25 above). Also, when attendant care expenses are included as qualifying medical expenses under any provision in subsection 118.2(2) for purposes of the medical expense tax credit, the same expenses cannot be deducted under section 64 (see 69 to 72 below) when determining the patient's income.

Care in a self-contained domestic establishment

28. An individual may include, as a qualifying medical expense, remuneration paid for a full-time attendant for a patient in a self-contained domestic establishment in which the patient lives, provided that the following conditions in paragraph 118.2(2)(c) are met:

- (a) A medical practitioner (see 4 above) certifies that, because of mental or physical infirmity, the patient is, and will likely continue for a prolonged period of indefinite duration to be, dependent on others for personal needs and care and, as a result, requires a full-time attendant.
- (b) At the time the remuneration is paid, the attendant is neither the individual's spouse nor under 18 years of age.
- (c) Receipts for payments to the attendant must be issued by the payee and include, if the payee is an individual, his or her social insurance number.

The medical practitioner may certify the patient's mental or physical infirmity in either a letter or by completing Form T2201, Disability Tax Credit Certificate.

Care due to lack of normal mental capacity

29. Amounts that the individual has paid for the cost of full-time care in a nursing home (see 31 below) for a patient qualify under paragraph 118.2(2)(d) as medical expenses if the patient, due to lack of normal mental capacity, is and apparently will continue to be dependent upon others for personal needs and care. Receipts from the nursing home and a certificate from a medical practitioner (see 4 above) are required to support a claim for an expenditure of this nature (see 68 below). The medical practitioner may certify the patient's mental capacity in either a letter or by completing Form T2201, Disability Tax Credit Certificate.

Care in an institution and care and training in a school

30. The costs paid for the care, or the care and training, of a patient at a school, institution or other place will qualify under paragraph 118.2(2)(e) 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. The certification of the individual's need for specialized equipment, facilities or personnel must either be specific as to the school, institution or other place which provides the specialized equipment, facilities or personnel or be specific as to the type of equipment, facilities or personnel which is needed to provide care and training of a person with that type of physical or mental impairment. For example, if a medical doctor certifies that a person requires supervision by reason of Alzheimer's disease and the institution has personnel specifically trained to supervise people suffering from that disease, the fees paid to the institution would qualify as a medical expense; however, if the person requires general supervision for which no specific training is available, then the fees paid would not qualify as a medical expense. For purposes of paragraph 118.2(2)(e), "other place" may include an out-patient clinic or a nursing home (see 31 below). An "appropriately qualified person" includes a medical practitioner (see 4 above) as well as any other person who has been given the required certification powers under provincial or federal law. A patient (for example, a dependant) suffering from a behavioral 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 under paragraph 118.2(2)(e), 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 *Rannelli v. MNR*, 91 DTC 816, [1991] 2 CTC 2040, (TCC)). The school need not limit its enrolment to persons who require specialized care and training. A patient suffering from an addiction to drugs or alcohol can also qualify under paragraph 118.2(2)(e). 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 under paragraph 118.2(2)(e) 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.

31. There is no requirement that a nursing home or a detoxification clinic be a public or licensed private hospital. The name of the institution 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 30 above) must be specifically tailored for the care of persons suffering from the physical or mental impairment in question and that the other conditions set out in 30 above must be met, for the fees to qualify as medical expenses under paragraph 118.2(2)(e).

Transportation and travel expenses of patient and accompanying individual

32. An amount paid for transportation of a patient by ambulance to or from a public or licensed private hospital qualifies as a medical expense under paragraph 118.2(2)(f).

33. Under paragraph 118.2(2)(g), an amount paid to a person engaged in the business of providing transportation services can qualify as a medical expense to the extent that the amount relates to transporting a patient between the locality where the patient lives and a location which is at least 40 kilometres away in order for the patient to receive medical services at that location. In order for such an amount to qualify under paragraph 118.2(2)(g), it must be paid under the following circumstances:

- (a) Substantially equivalent medical services are unavailable within the patient's locality.
- (b) The patient takes a reasonably direct travel route.
- (c) It is reasonable, in the circumstances, for the patient to travel to that place for the medical services.

If a person engaged in the business of providing transportation services is not readily available, subsection 118.2(4) instead allows as a qualifying medical expense under paragraph 118.2(2)(g) reasonable expenses incurred for operating a vehicle (see 35 below) for transporting the patient provided that the above rules and circumstances are otherwise fulfilled. For this purpose, the term "vehicle" means any type of conveyance used to transport the patient by land, water or air including a vehicle owned by the individual claiming the expenses, the patient or a family member.

Whether a person engaged in the business of providing transportation services is "readily available" is a question of fact. However, where there is some urgency to a situation such that immediate or at least prompt transportation to the location providing the requisite medical service is necessary, and a person engaged in the business of providing transportation services cannot be located quickly or the service is available only after an unacceptable delay of time, it is accepted that the service is not "readily available." If the urgency does not exist or a person engaged in the business of providing transportation services is "readily available," an individual may not claim expenses under paragraph 118.2(2)(g) in respect of a vehicle owned by the individual, the patient or a family member.

If expenses for transporting the patient are being claimed under paragraph 118.2(2)(g) as described above, that provision also allows the same kind of expenses for transporting one individual who

accompanies the patient provided that a medical practitioner (see 4 above) has certified that the patient is incapable of travelling without an attendant.

34. Paragraph 118.2(2)(h) refers to travel expenses other than those referred to in paragraph 118.2(2)(g) (discussed in 33 above). Paragraph 118.2(2)(h) provides that an individual may include, as qualifying medical expenses, such other reasonable travel expenses (see 35 below) for a patient to obtain medical services if the patient travels to a place that is at least 80 kilometres away from the locality where he or she dwells to get the medical services, and provided the following other conditions are met:

- (a) Substantially equivalent medical services are unavailable within the patient's locality.
- (b) The patient takes a reasonably direct travel route.
- (c) It is reasonable, in the circumstances, for the patient to travel to that place for the medical services.

The individual claiming travel expenses for the patient under paragraph 118.2(2)(h) may also claim, under the same paragraph, the same kinds of travel expenses (that is, reasonable travel expenses other than those referred to in paragraph 118.2(2)(g)) for one individual to accompany the patient as long as the patient has been certified by a medical practitioner as being incapable of travelling without an attendant.

35. In determining reasonable expenses incurred for operating a vehicle as noted in 33 above, no amount may be included for interest, lease costs or capital cost allowance on the vehicle. A "per kilometre" amount may be claimed in lieu of receipts for actual automobile expenses if the amount is a reasonable approximation of the normal operating costs expended for the operation of the automobile in the course of travel for medical purposes. Generally, the per kilometre amount will take into consideration operating costs such as gas, oil, regular maintenance, licenses and insurance. "Other reasonable travel expenses" in 34 above refers to amounts expended for meals and accommodation for a patient and, where applicable, for an accompanying individual. The individual claiming the medical expense tax credit for these expenses must substantiate them with receipts (see 68 below). Furthermore, the onus is on the individual to demonstrate that the expenses qualify. For example, the individual may have to show that an amount paid for lodging is necessary as a result of the distance travelled, or the condition of the patient for travel, and not solely for the sake of convenience.

Artificial limbs, aids and other devices and equipment

36. By virtue of paragraph 118.2(2)(i), qualifying medical expenses include the purchase price or, where applicable, the rental charge or other expenses (for example, maintenance, repairs, supplies) related to the following:

- (a) an artificial limb;
- (b) an iron lung (see 37 below);
- (c) a rocking bed for poliomyelitis victims;
- (d) a wheelchair (see 38 below);
- (e) crutches;

- (f) a spinal brace (see 39 below);
- (g) a brace for a limb (see 40 below);
- (h) an ileostomy or a colostomy pad (see 41 below);
- (i) a truss for a hernia;
- (j) an artificial eye;
- (k) a laryngeal speaking aid (see 42 below);
- (l) an aid to hearing (see 43 and 44 below); and
- (m) an artificial kidney machine (see 45 to 49 below).

37. The term "iron lung" (see 36 above) includes a portable chest respirator that performs the same function in substantially the same manner as the appliance ordinarily thought of as an iron lung. That term is also accepted as including a machine for supplying air (possibly in combination with oxygen or medication) to the lungs under pressure, for therapeutic use.

38. The term "wheelchair" (see 36 above) is not restricted to the conventional arm-powered or battery-powered wheelchairs but also includes scooters and wheel-mounted geriatric chairs.

39. The term "spinal brace" (see 36 above) includes a spinal support.

40. A "brace for a limb" (see 36 above) does not necessarily have to be something of a rigid nature, although at least one of the functions of the brace must be to impart some degree of rigidity to the limb which is being braced. Accordingly, that phrase is considered to include woven or elasticized stockings where these are of a kind that are carefully fitted to measurement or are made to measure. When a brace for a limb is necessarily built into a boot or shoe in order to permit a person to walk, the brace will be considered to include the boot or shoe.

41. "Ileostomy or colostomy pads" (see 36 above) include pouches and adhesives used for the same purpose. (See 50 below for products required because of incontinence.)

42. A "laryngeal speaking aid" (see 36 above) is an electronic type of instrument that assists a person to produce speech sounds. An artificial larynx or a similar type of speaking aid for a person who would otherwise be deprived of an effective speech capability may also qualify for purposes of the medical expense tax credit. Qualifying expenses related to these devices may include the cost of batteries, maintenance, repairs or replacements.

43. In addition to the more usual hearing aid devices, an "aid to hearing" (see 36 above) includes:

- (a) a device that produces extra-loud audible signals such as a bell, horn or buzzer;
- (b) a device to permit the volume adjustment of telephone equipment above normal levels;

(c) a bone-conduction telephone receiver; and

(d) a "Cochlear" implant, which consists of a series of electrodes surgically placed in the sensory organ of a person who is profoundly deaf and for whom traditional hearing aids are not feasible.

44. When a hearing aid is incorporated into the frame of a pair of eyeglasses, both the hearing aid and the eyeglass frame qualify under paragraph 118.2(2)(i). The phrase "an aid to hearing" includes the batteries that are required for that purpose, and repairs. A listening device that is acquired to alleviate a hearing impairment by eliminating or reducing sound distortions for the purpose of listening to television programs, movies, concerts, business conferences or similar events, is also considered to qualify as an "aid to hearing" under paragraph 118.2(2)(i).

45. Qualifying medical expenses relating to an "artificial kidney machine" (see 36 above) include the costs of alterations to a home or the upgrading of the home's existing electrical or plumbing systems, provided that these costs are reasonable in the circumstances and are necessary for the installation of the machine. In addition to providing receipts to substantiate such costs, the individual should provide a certificate from the official at the hospital who authorized the installation of the artificial kidney machine stating that such expenditures were required to enable the hospital to install the equipment (see 68 below).

46. When an artificial kidney machine is installed at the individual's residence, the following costs, to the extent that they are reasonable, may also be included as qualifying medical expenses under paragraph 118.2(2)(i):

(a) repairs, maintenance, and supplies for the machine;

(b) water and electricity to operate the machine (see 47 below); and

(c) the costs of housing the machine (that is, municipal taxes, insurance, heating, lighting, and maintenance and repairs, but not including capital cost allowance or mortgage interest) or the portion of rent that is attributable to the room where the machine is kept (see 47 and 48 below).

47. If it is not possible to determine the actual amount of one of the costs of operating or housing an artificial kidney machine, as referred to in 46(b) or (c) above, it will be necessary to allocate a reasonable proportion of the total amount of that particular cost for the whole home (for example, the total insurance or the total heating cost) in order to determine the portion that qualifies as a medical expense pertaining to the artificial kidney machine. However, no portion of a cost should be claimed if that cost cannot reasonably be considered to relate to the operation or housing of the machine. Thus, for example, a repair expense for another part of the home would not qualify. When an actual cost of operating or housing the machine can be determined, this actual cost must be used when determining the total which qualifies as a medical expense (for example, the amount of municipal taxes attributable to an addition to the home that houses the machine when such an amount can be ascertained from the property tax bill, or the cost of lighting repairs in the room where the machine is kept).

48. In determining the portion of rent that qualifies as a medical expense for purposes of 46(c) above, the amount must be based on actual rent paid and not on the rental value of the room in a home that is owned.

49. Necessary and unavoidable costs of transporting supplies for the artificial kidney machine may be included as qualifying medical expenses when the supplier will not deliver, as long as all of these conditions are met:

- (a) The distance from the patient's residence to the nearest supply depot is at least 40 kilometres.
- (b) The means of transportation is the least expensive available that is suitable in the circumstances.
- (c) The quantity of supplies obtained is adequate for a reasonable period of time.

Products required because of incontinence

50. The cost of diapers, disposable briefs, catheters, catheter trays, tubing or other products required by the patient because of incontinence caused by illness, injury or affliction are qualified medical expenses under paragraph 118.2(2)(i.1).

Eyeglasses

51. The cost of eyeglasses that qualifies as a medical expense under paragraph 118.2(2)(j) includes the cost of both the frames and lenses. The phrase "other devices for the treatment or correction of a defect of vision" in paragraph 118.2(2)(j) includes contact lenses. In all cases, a medical practitioner (see 4 above) (oculist or ophthalmologist) or an optometrist must prescribe the item. Laser eye surgery qualifies under paragraph 118.2(2)(a).

Oxygen tents

52. The cost of buying or renting an oxygen tent or other equipment necessary to administer oxygen for medical purposes (including, for example, oxygen face masks, tanks containing oxygen under pressure) qualifies as a medical expense under paragraph 118.2(2)(k).

Guide and hearing-ear dogs and other animals

53. The costs of acquiring and the care and maintenance (including food and veterinary care) of an animal qualify as medical expenses under paragraph 118.2(2)(l) as long as certain conditions are met. These costs must be paid on behalf of a patient who is blind, profoundly deaf or who has a severe and prolonged impairment (see 2 above) that markedly restricts the use of the patient's arms or legs. The animal must be specially trained to assist a patient in coping with his or her impairment and the animal must be provided by a person or organization one of whose main purposes is the training of animals for this purpose. The patient's reasonable travel expenses incurred for the purpose of attendance at, and reasonable board and lodging expenses incurred for the purpose of full-time attendance at, a school, institution or other facility that trains persons with the same kind of impairment in the handling of such animals will also qualify as medical expenses.

Bone marrow or organ transplants

54. Reasonable expenses, including legal fees and insurance premiums, paid to locate a compatible bone marrow or organ transplant donor for a patient and to arrange for the transplant, qualify as medical

expenses under paragraph 118.2(2)(1.1). Reasonable travel, board and lodging expenses (other than expenses described in paragraphs 118.2(2)(g) and (h) as discussed in 33 to 35 above) paid for the donor and the patient, in respect of the transplant, also qualify under paragraph 118.2(2)(1.1) as do any such expenses in respect of the transplant that are paid for one other person who accompanies the donor and for one other person who accompanies the patient.

Renovations and alterations to a dwelling

55. In the case of an individual who lacks normal physical development or who has a severe and prolonged (see 2(a) above) mobility impairment, reasonable expenses relating to renovations or alterations to the individual's dwelling can be claimed as medical expenses under paragraph 118.2(2)(1.2). To qualify, these expenses must be paid to enable the individual to gain access to the dwelling or be mobile or functional within it. Included in this category are reasonable expenses for necessary structural changes, such as:

- (a) the purchase and installation of outdoor or indoor ramps where stairways impede the individual's mobility;
- (b) the enlarging of halls and doorways to allow the individual access to the various rooms of the dwelling; and
- (c) the lowering of kitchen or bathroom cabinets to allow the individual access to them.

The types of structural changes that could be eligible are not restricted to the above examples. "Reasonable expenses" pertaining to a particular structural change may include payments to an architect or a contractor.

Rehabilitative therapy

56. Amounts paid for reasonable expenses relating to rehabilitative therapy, including training in lip reading or sign language, incurred to adjust for the patient's hearing or speech loss qualify as medical expenses under paragraph 118.2(2)(1.3).

Note: Bill C-28 was given First reading in the House of Commons on December 10, 1997. Bill C-28, if enacted as proposed, will add paragraphs 118.2(2)(1.4) to (1.7) for the 1997 and later taxation years. The paragraphs will add the following as medical expenses:

- fees for sign language interpretation services paid on behalf of a patient with a speech or hearing impairment to a person who is in the business of providing such services-paragraph 118.2(2)(1.4);
- reasonable moving expenses (within the meaning of subsection 62(3), but not including any expense deducted under section 62 for any taxation year) in respect of a patient who lacks normal physical development or who has a severe and prolonged mobility impairment to move to housing that is more accessible by the patient or in which the patient is more mobile or functional, to a maximum of \$2,000-paragraph 118.2(2)(1.5);
- reasonable expenses relating to the alterations to the driveway of the principal place of residence of a patient who has a severe and prolonged mobility impairment if the alterations are made to facilitate the patient's access to a bus-paragraph 118.2(2)(1.6); and

- the lesser of \$5,000 and 20% of the amount by which

(a) the amount paid for the acquisition of a van

exceeds

(b) any amount referred to in (a) that is included because of paragraph 118.2(2)(m) in calculating a patient's medical expense tax credit for any taxation year

where the van, at the time of its acquisition or within 6 months thereafter, has been adapted for the transportation of the patient who requires the use of a wheelchair-paragraph 118.2(2)(l.7).

If the paragraphs are enacted as proposed, it is the Department's view that fees paid to an oralist interpreter would qualify under paragraph 118.2(2)(l.4) and reasonable expenses relating to the alteration of a driveway may be claimed under paragraph 118.2(2)(l.6) even if the patient uses a van for transportation rather than a bus.

Devices and equipment prescribed by regulation

57. By virtue of paragraph 118.2(2)(m), the list of devices and equipment which qualify for purposes of the medical expense tax credit has been expanded by means of the Income Tax Regulations (the Regulations), which are amended from time to time by order-in-council. An amount paid for a device or equipment cannot be claimed under paragraph 118.2(2)(m) unless the device or equipment:

- (a) is prescribed by the Regulations;
- (b) is for the patient's use as prescribed by a medical practitioner (see 4 above);
- (c) is not described in any of the other paragraphs of subsection 118.2(2); and
- (d) meets such conditions as are applicable to its use or as to the reason for its acquisition.

Part LVII (section 5700) of the Regulations, Medical Devices and Equipment, contains the list of prescribed devices and equipment for purposes of paragraph 118.2(2)(m) and sets out the conditions as to their use and reasons for their acquisition (see the Appendix to this bulletin).

Note: Bill C-28 was given First reading in the House of Commons on December 10, 1997. Bill C-28, if enacted as proposed, will amend, for 1997 and later taxation years, subsection 118.2(2)(m) to permit the setting of a maximum amount on the claim for a device or of equipment that qualify as a medical expense by virtue of Part LVII of the Regulations.

Preventive, diagnostic and other treatments

58. Paragraph 118.2(2)(n) permits as a qualifying medical expense amounts paid for drugs, medicaments or other preparations or substances (other than those described in paragraph 118.2(2)(k)-see 62(a) below) that are prescribed by a medical practitioner or dentist and recorded by a pharmacist where the items that have been prescribed are to be used in the diagnosis, treatment or prevention of a disease, disorder, abnormal physical state, or symptoms thereof, or in restoring, correcting or modifying an

organic function.

A person suffering from diabetes is allowed to include as a qualifying medical expense the cost of insulin, under paragraph 118.2(2)(k), or substitutes, under paragraph 118.2(2)(n), as prescribed by a medical practitioner (see 4 above). When such a person has to take sugar-content tests using test-tapes or test tablets and a medical practitioner has prescribed this diagnostic procedure, the tapes or tablets qualify as devices or equipment under paragraph 118.2(2)(m) and Part LVII of the Regulations (see 57 above and item (s) of the Appendix). On the other hand, the cost of various kinds of scales, which diabetics frequently use for weighing themselves or their food, is not a qualifying medical expense.

59. If a medical practitioner prescribes treatments in, for example, a hot tub or a whirlpool bath the cost of the treatment qualifies as a medical expense under paragraph 118.2(2)(a) if paid, for example to a public or licensed private hospital. However, if a hot tub or whirlpool bath is purchased, the cost does not qualify as a medical expense since it is not prescribed in Part LVII of the Regulations.

60. Qualifying medical expenses under paragraph 118.2(2)(o) include the cost of laboratory, radiological and other diagnostic procedures or services, with necessary interpretations, for maintaining health, preventing disease or assisting in the diagnosis or treatment of any injury, illness or disability of the patient, as prescribed by a medical practitioner or dentist. An example of such expenses, which may not be covered by provincial health insurance, are the following expenses involved with artificial insemination:

- (a) the in-vitro fertilization procedure;
- (b) daily ultrasound and blood tests once the in-vitro procedure has begun;
- (c) anaesthetist fees; and
- (d) cycle monitoring fees.

61. Payments made for acupuncture treatments are a qualified medical expense under paragraph 118.2(2)(a) only when the payments are made to a medical practitioner.

Drugs, medicaments and other preparations or substances

62. For purposes of calculating the medical expense tax credit, there are two categories of drugs, medicaments or other preparations or substances (other than those included in the account of a medical practitioner (see 4 above) or hospital) the cost of which may qualify as medical expenses:

- (a) the substances, mentioned in paragraph 118.2(2)(k) (insulin, oxygen and, for pernicious anaemia, liver extract and vitamin B12) which, for purposes of this paragraph, a medical practitioner must have prescribed, but which a pharmacy or any other type of store may sell without a written prescription; and
- (b) the drugs (and other items), referred to in paragraph 118.2(2)(n), which a medical practitioner or dentist must have prescribed, and which must be purchased from a pharmacist who has recorded the prescription in a prescription record.

63. Birth control pills which a medical practitioner has prescribed are considered to qualify under

paragraph 118.2(2)(n) if a pharmacist has recorded the prescription.

Dentures

64. Frequently, a denture is prescribed and fitted by a dentist, even though it may have been made in a dental laboratory, and the payment qualifies under paragraph 118.2(2)(a) as an amount paid to a dentist. However, paragraph 118.2(2)(p) specifically provides that amounts paid for the patient to a dental mechanic or denturologist, who is authorized under the laws of a province to make or repair dentures or to otherwise carry on the business of a dental mechanic or denturologist, also qualify as medical expenses.

Premiums to private health services plan

65. Paragraph 118.2(2)(q) provides that any premium that the individual or his or her legal representative has paid to a private health services plan for that individual, the individual's spouse or a member of the household with whom the individual is connected by blood relationship, marriage or adoption (see the current version of IT-339, Meaning of "Private Health Services Plan") may be included as a qualifying medical expense. However, premiums paid to provincial medical or hospitalization insurance plans cannot be included.

Medical expenses paid or deemed to have been paid

66. As indicated in 12 above, a medical expense cannot qualify for the medical expense tax credit unless it has actually been paid or is deemed to have been paid by the individual claiming the credit or by the individual's legal representative. Any reference throughout this bulletin to the "cost" of a particular medical expense is subject to this rule. Medical expenses paid or provided for by an employer but included in the employee's income are deemed by paragraph 118.2(3)(a) to have been paid by the employee and, therefore, can be claimed by the employee (assuming they otherwise qualify) for purposes of the medical expense tax credit under subsection 118.2(1). The employee is deemed to have paid such expenses at the time the employer paid or provided them.

Expenses That Do Not Qualify

67. Paragraph 118.2(3)(b) provides that qualifying medical expenses of an individual do not include any expense for which the individual, the patient or the legal representative of either such person has been, or is entitled to be, reimbursed except to the extent that the amount is required to be included in income and cannot be deducted in computing taxable income. Thus, for example, an amount reimbursed under a public or private medical, dental or hospitalization plan would not qualify for purposes of the medical expense tax credit. However, an amount reimbursed by an employer that is included in the employee's income would qualify provided the employee is not able to deduct the amount in computing taxable income.

Receipts

68. Proper receipts must support all amounts claimed as qualifying medical expenses (including travel expenses commented on in 33 to 35 above). A receipt should indicate the purpose of the payment, the date of the payment, the patient for whom the payment was made and, if applicable, the medical practitioner (see 4 above), dentist, pharmacist, nurse, or optometrist who prescribed the purchase or gave

the service. A cancelled cheque is not acceptable as a substitute for a proper receipt. If required forms, receipts or other supporting documents are not filed with the income tax return, such as when the return is electronically filed (E-filed), they should nevertheless be retained and readily available as they may subsequently be requested as proof of the claims being made or in support of the information being reported.

Note: Bill C-28 was given First reading in the House of Commons on December 10, 1997. Bill C-28, if enacted as proposed, will add audiologists, after February 18, 1997, and medical doctors, for taxation years that end after November 1991, to the list of individuals who can prescribe the purchase of or provide services that qualify as medical expenses.

Attendant Care Expense Deduction in Computing Income

69. Section 64 provides for a deduction, in computing income for the year, for attendant care expenses. "Attendant care" is considered to refer to the personal care that is necessary to enable the person with a disability to carry out one of the activities described in 70(b) below. "Personal care" is more than, for example, providing transportation to work. The deduction under section 64 can be claimed only by a person with a disability who qualifies for the disability tax credit for the year in accordance with the rules discussed in 5 and 6 above. Even if the disability tax credit is claimed under the rules discussed in 8 to 10 above by a supporting person or spouse rather than by the person with a disability, only the person with a disability may claim the section 64 attendant care expense deduction. Under section 64, the person with a disability can deduct the amounts he or she has paid in the year for attendant care provided in Canada to enable him or her to earn any of the types of income mentioned in 70(b) below. An amount cannot qualify for the deduction if it was paid to an attendant who, at the time of the payment, was under 18 years of age or was the spouse of the person with a disability. The total amount of the deduction allowed for the year is subject to the limitation described in 70 below. An attendant care payment cannot be deducted under section 64 when calculating income if it was claimed (for any taxation year) by the person with a disability or another person as a medical expense for purposes of the section 118.2 medical expense tax credit (see 27 above). A person with a disability claiming a section 64 attendant care expense deduction should prepare prescribed Form T929, Attendant Care Expenses, and retain it for examination. Note, however, that a section 64 attendant care expense deduction may not be made in a return filed under subsections 70(2), 104(23) or 150(4) (these are separate returns filed for a deceased taxpayer in respect of certain types of income) or with a return filed under paragraph 128(2)(e) (this is a return filed for a bankrupt person). Attendant care payments claimed under section 64 must be supported by receipts (see 68 above). Each receipt must be issued by the payee and, if the payee is an individual, must show his or her social insurance number.

70. The attendant care expense deduction that a taxpayer who is a person with a disability may claim for the year under section 64 is limited to the least of these three amounts:

- (a) the total of all attendant care payments that meet all the rules described in 69 above, paid by the taxpayer in the year to enable him or her to be employed, carry on a business (alone or as an active partner in a partnership), take a training course for which a training allowance was received under the National Training Act or carry on research or similar work for which a grant was received, less any reimbursements or other assistance (other than prescribed assistance or amounts included in income and not deductible in calculating taxable income) which the taxpayer received or is entitled to receive for the amounts paid;
- (b) two thirds of the total of all amounts included in calculating the taxpayer's income from

employment (including stock options and other employment benefits), carrying on a business (alone or as an active partner in a partnership), taxable training allowances (received under the National Training Act), scholarships, fellowships, bursaries, prizes and research grants; and

(c) \$5,000.

The National Training Act was repealed effective January 1, 1998.

Note: Bill C-28 was given First reading in the House of Commons on December 10, 1997. Bill C-28, if enacted as proposed, will amend section 64, for 1997 and later years, to eliminate the \$5,000 limitation in (c) above.

71. Section 64.1 provides a special rule for an individual who is absent from Canada for all or part of the year but is nevertheless a resident of Canada for tax purposes while absent (either because of residential ties with Canada or because he or she is deemed to be resident in Canada under section 250). For the period of the individual's absence, section 64.1 removes two of the requirements that would otherwise have to be met under section 64 for purposes of the attendant care expense deduction:

- (a) the requirement that the attendant care be provided "in Canada"; and
- (b) the requirement that the attendant payee's social insurance number appear on the receipt (this requirement remains, of course, if the attendant is a resident of Canada for tax purposes).

Therefore, if the individual is a person with a disability, he or she can claim the attendant care expense deduction for attendant care provided outside Canada, assuming all the other requirements of section 64 (as discussed in 69 and 70 above) are met.

72. When determining income from employment in 70(b) above, subsection 6(16) should be kept in mind. Because of that subsection, benefits or allowances (not in excess of a reasonable amount) provided by an employer that relate to either of the following are not to be included when determining employment income:

- (a) transportation to and from work, including parking near the work location, for an employee who is blind or who has a severe and prolonged mobility impairment that markedly restricts the employee's ability to perform a basic activity of daily living (for example, walking); or
- (b) an attendant to assist the employee in performing the duties assigned if the employee has a severe and prolonged mental or physical impairment which markedly restricts his or her ability to perform a basic activity of daily living.

An amount will be accepted as reasonable if it is designed to cover the related costs incurred by an employee.

The rules contained in subsection 118.4(1) regarding the meanings of "prolonged," "markedly restricted" and "basic activity of daily living," which are described in 2 above, apply for purposes of the rules in subsection 6(16).

Proposed Refundable Medical Expense Tax Credit

73. Note: Bill C-28 was given First reading in the House of Commons on December 10, 1997. Bill C-28, if enacted as proposed, will add section 122.51 to provide for a refundable medical expense tax credit for the 1997 and later years. This refundable credit will be available to an individual (other than a trust) and who has a net income of at least \$2,500 in the year from all offices and employments as well as from businesses. Net income from offices and employment is the excess of salary, wages, employment related benefits and other remuneration including gratuities over the allowable deductions. The allowable deductions include registered pension plan contributions, annual union and professional dues, and other expenses as described in the guide Employment Expenses. Amounts received under wage-loss replacement plans are not included in this calculation of net income. The credit will be limited to the lesser of

- \$500, and
- 25% of the portion of expenses allowed for the purpose of claiming the medical expense tax credit.

The credit will be reduced by 5% of the

- total net incomes for the year of the individual who claims the credit and the individual's spouse in excess of
- \$16,069.

To qualify for the credit, an individual must be at least 18 years old before the end of the year and be resident in Canada throughout the year (or, where the individual dies in the year, throughout the portion of the year before the individual's death).

This credit can be claimed in respect of the same expenses as the medical expense tax credit and in addition to it.

The credit cannot be claimed on an income tax return filed under subsection 70(2) or 150(4) or paragraph 104(23)(d) or 128(2)(e).

Please see the example on the following page.

Proposed Medical Expense Tax Credit for Training

74. Note: As part of the Federal Budget of February 24, 1998, a Notice of Ways and Means Motion to Amend the Income Tax Act was tabled in the House of Commons. One of the proposed amendments would expand the list of expenses eligible for the medical expense tax credit for the 1998 and later taxation years to permit reasonable expenses for the training of an individual in connection with the care to be provided to a person who

- (a) is related to the individual,
- (b) has a mental or physical infirmity, and

(c) is a member of the individual's household or is dependent on the individual for support.

Example of Refundable Medical Expense Tax Credit

Terry and Willy are married. Terry's net income from employment is \$5,000 in example A and \$10,000 in example B while Willy's business income is \$15,000. Their combined medical expenses are \$2,400 which Willy claims in example A and Terry claims in example B.

| | Example A | Example B | Line |
|--|-----------------|----------------|------|
| Willy's Income | \$15,000 | \$15,000 | (1) |
| Terry's Income | <u>5,000</u> | <u>10,000</u> | (2) |
| Family Income | \$20,000 | \$25,000 | (3) |
| Subtract | <u>16,069</u> | <u>16,069</u> | |
| Family Income in excess of \$16,069 | <u>\$3,931</u> | <u>\$8,931</u> | (4) |
| Medical Expenses. | \$2,400 | \$2,400 | (5) |
| 3% of the individual's income | <u>450</u> | <u>300</u> | (6) |
| Expenses allowed for medical expenses tax credit | <u>\$1,950</u> | <u>\$2,100</u> | (7) |
| Lesser of \$500 and 25% of line 7 | <u>196.55</u> | <u>446.55</u> | (9) |
| Refundable Medical Expense Tax Credit. | <u>\$290.95</u> | <u>\$53.45</u> | |

APPENDIX (see 57 above)

Part LVII of the Regulations Prescribed Medical Devices and Equipment

For the purpose of paragraph 118.2(2)(m), the following devices and equipment are prescribed under section 5700 of the Income Tax Regulations and, therefore, an amount paid for any such device or equipment that is prescribed for the patient's use by a medical practitioner (see 4 above) qualifies as a medical expense, subject to the conditions described below:

- (a) A wig made to order for an individual who has suffered abnormal hair loss because of disease, medical treatment or accident.
- (b) A needle or syringe designed to be used for the purpose of giving an injection.
- (c) A device or equipment, including a replacement part, designed exclusively for use by an individual suffering from a severe chronic respiratory ailment or a severe chronic immune system disregulation, but not including an air conditioner, humidifier, dehumidifier, heat pump or heat or air exchanger.
 - (c.1) An air or water filter or purifier for use by an individual who is suffering from a severe chronic respiratory ailment or a severe chronic immune system disregulation to cope with or overcome that ailment or disregulation.

- (c.2) An electric or sealed combustion furnace acquired to replace a furnace that is neither an electric furnace nor a sealed combustion furnace, when the replacement is necessary solely because of an individual's severe chronic respiratory ailment or a severe chronic immune system dysregulation.
- (d) A device or equipment designed to pace or monitor the heart of an individual who suffers from heart disease.
- (e) An orthopaedic shoe or boot or an insert for a shoe or boot made to order for an individual, in accordance with a prescription, to overcome a physical disability.
- (f) A power-operated guided chair installation, for an individual, that is designed to be used solely in a stairway.
- (g) A mechanical device or equipment designed to assist an individual to enter or leave a bathtub or shower or to get on or off a toilet.
- (h) A hospital bed, including any attachments to the bed prescribed for the patient.
- (i) A device designed to assist an individual in walking, when the individual has a mobility impairment.
- (j) An external breast prosthesis that is required because of a mastectomy.
- (k) A teletypewriter or similar device, including a telephone ringing indicator, that enables an individual who is deaf or mute to make and receive telephone calls. (This will include visual ringing indicators such as flashing lights, as well as acoustic couplers, and teletypewriters providing either printed or visual display screen communications. The individual may be required to provide a certificate from a medical practitioner to establish that such equipment was obtained to mitigate the effects of a hearing or speech disability. Additional equipment and accessories provided to others in order to make telephone communications possible between those other persons and the individual who is deaf or mute may also qualify.)
- (l) An optical scanner or similar device designed to enable an individual who is blind to read print.
- (m) A power-operated lift or transportation equipment designed exclusively for use by, or for, an individual who is disabled to allow the individual access to different areas of a building or to assist the individual in gaining access to a vehicle or to place the individual's wheelchair in or on a vehicle.
- (n) A device designed exclusively to enable an individual who has a mobility impairment to operate a vehicle.
- (o) A device or equipment, including a synthetic speech system, braille printer and large print-on-screen device, designed exclusively for use by an individual who is blind, in operating a computer.
- (p) An electronic speech synthesizer that enables an individual who is mute to communicate by using a portable keyboard.
- (q) A device to decode special television signals to permit the script of a program to be visually displayed.

(q.1) A visual or vibratory signalling device, including a visual fire alarm indicator, for an individual who has a hearing impairment.

(r) A device designed to be attached to an infant diagnosed as being prone to sudden infant death syndrome in order to sound an alarm if the infant ceases to breathe.

(s) An infusion pump, including disposable peripherals, used to treat diabetes or a device designed to enable an individual with diabetes to measure blood sugar level.

(t) An electronic or computerized environmental control system designed exclusively for the use of an individual who has a severe and prolonged mobility restriction.

(u) An extremity pump or elastic support hose designed exclusively to relieve swelling caused by chronic lymphedema.

(v) An inductive coupling osteogenesis stimulator for treating non-union of fractures or aiding in bone fusion.

Note: The Minister of Finance published Explanatory Notes Relating to Income Tax in connection with Bill C-28. The Explanatory Notes describe that, for 1997 and later taxation years, the list of expenses contained in Part LVII of the Regulations will be expanded to include the cost (up to \$1,000) of an air conditioner prescribed by a medical practitioner as being necessary to assist an individual in coping with the individual's severe chronic ailment, disease or disorder.

Explanation of Changes for Interpretation Bulletin IT-519R2 - Medical Expense and Disability Tax Credits and Attendant Care Expense Deduction

Introduction

The purpose of the Explanation of Changes is to give the reasons for the revisions to an interpretation bulletin. It outlines revisions that we have made as a result of changes to the law, as well as changes reflecting new or revised departmental interpretations.

Reasons for the Revision

We have revised the bulletin to provide expanded guidance on many of the terms and expressions used in the medical and disability tax credit provisions in the Income Tax Act. The revised bulletin addresses some of the findings of the Federal Task Force on Disability Issues and reflects proposed amendments contained in Bill C-28, given First reading in the House of Commons on December 10, 1997, and Explanatory Notes Relating to Income Tax, published by the Minister of Finance in connection with

Bill C-28. Notes have been added concerning the most relevant proposals contained in a Notice of Ways and Means Motion to Amend the Income Tax Act that was tabled in the House of Commons as part of the Federal Budget of February 24, 1998, by the Minister of Finance. The bulletin is not affected by any other proposed legislation that was released before February 25, 1998.

Legislative and Other Changes

The Summary has been revised to describe the purpose for the medical expense tax credit, the disability tax credit and the attendant care expense deduction as well as to note that while an individual may be entitled to a disability pension under a pension or insurance arrangement, the individual may not be entitled to the disability tax credit.

[Number 2](#) was revised to

- reflect the decision of July 3, 1997 of the Tax Court of Canada in *Roch Tanguay v. The Queen* that the "and" in the expression "feeding and dressing oneself" in subparagraph 118.4(1)(c)(ii) should be read as "or", and
- provide further guidance on the meaning of the terms "prolonged," "markedly restricted" and "inordinate amount of time." A comment has been added that it is the effect of the impairment that is relevant in determining whether an individual is eligible for the disability tax credit.

Former [number 3](#) has not been carried forward as the Department has its own advisors to advise on whether an individual is entitled to claim a disability tax credit, that is, if the individual has a severe and prolonged impairment that markedly restricts the individual's ability to perform a basic activity of daily living.

[Number 4](#) (former number 5) is expanded to add "dental hygienists" to the list of medical practitioners.

[A Note was added after number 4](#) to reflect an amendment contained in Bill C-28. The amendment adds audiologists (after February 18, 1997) and medical doctors (for taxation years that end after November 1991) to subsection 118.4(2). The addition of "medical doctors" corrects an oversight made in the Fifth Supplement of the Revised Statutes of Canada, 1985.

[Number 6](#) (former number 7) is revised to note the Department's practice of reviewing a person's eligibility to claim the disability tax credit before the relevant income tax return is assessed and to observe that a person may be entitled to a disability pension but may not qualify for the disability tax credit.

[Note 1](#) was added following number 6 to reflect an amendment contained in Bill C-28. The amendment, which applies after February 18, 1997, permits audiologists to certify that a person has a severe and prolonged hearing impairment for the purposes of the disability tax credit.

[Note 2](#) was added following number 6 to reflect a proposed amendment contained in the 1998 Federal Budget. The amendment, which applies after February 24, 1998, allows occupational therapists and psychologists to certify the existence of certain severe and prolonged impairments for the purposes of the disability tax credit.

[Number 7](#) is the former number 11.

[Number 10](#) has been revised to describe section 118.8. The section allows for the transfer of unused tax

credits from one spouse to the other. The definition of "spouse" in subsection 252(4) is also mentioned in the paragraph.

Former number 19 has not been carried forward since it repeated information contained in former number 13(a) (current [number 12](#) (a)).

[Number 22](#) (former number 24) has been revised to note that it is the provincial rather than municipal authorities that licence hospitals.

[Number 24](#) (former number 26) is expanded to discuss the meaning of the expressions "full-time attendant" and "full-time care" as used in paragraph 118.2(2)(b).

[Number 25](#) (former number 27) is expanded to give some guidance on the meaning of the expression "attendant care" as used in paragraph 118.2(2)(b.1)

[A Note was added following number 25](#) to reflect an amendment contained in Bill C-28. The amendment to paragraph 118.2(2)(b.1), which applies for the 1997 and later taxation years, increases the maximum amount for remuneration for part-time attendant care to \$10,000 and to \$20,000 in the year of death.

[Number 26](#) (former number 28) is revised to note that the employer's portion of Employment Insurance premiums and Canada or Quebec Pension Plan contributions qualify as medical expenses under paragraphs 118.2(2)(b), (b.1) and (c) when an attendant is employed.

[Number 30](#) (former number 32) is expanded to describe what must be certified in respect of an individual's need for specialized equipment, facilities or personnel for the purposes of paragraph 118.2(2)(e) and to observe that if an institution is identified as having the appropriate equipment, facilities or personnel, the institution need not limit its enrolment to persons requiring that specialized care and training.

[Number 33](#) (former number 35) is expanded to discuss the expression "readily available" as it applies to a person engaged in the business of providing transportation services where an amount paid to such a person qualifies as a medical expense for the purposes of paragraph 118.2(2)(g).

[Number 35](#) (former number 37) has been expanded to describe the amount that can be claimed as medical expenses for automobile transportation when receipts for such expenses are not provided.

New [number 38](#) describes other vehicles which qualify as wheelchairs for the purposes of paragraph 118.2(2)(i).

[Number 51](#) (former number 52) has been expanded to observe that laser eye surgery qualifies as a medical expense under paragraph 118.2(2)(a).

[A Note was added following number 56](#) to reflect an amendment contained in Bill C-28. The amendment, which applies for the 1997 and later taxation years, expands the list of expenses eligible for the medical expense tax credit by 4 items. A comment was added following the note concerning the Department's interpretation of 2 of the items.

[A Note was added following number 57](#) to reflect an amendment contained in Bill C-28. The amendment, which applies for the 1997 and later taxation years, amends paragraph 118.2(2)(m) to permit the setting

of a maximum amount on the claim for a device or of equipment that qualifies as a medical expense under Part LVII of the Regulations.

[Number 58](#) (former number 59) has been expanded to describe when paragraph 118.2(2)(n) applies.

New [number 59](#) describes that the cost of treatments in a hot tub or whirlpool bath may qualify as a medical expense but the cost of purchasing such equipment does not qualify.

[Number 60](#) is expanded to discuss an example of the cost of laboratory, radiological and other diagnostic services which qualify as medical expenses for the purposes of paragraph 118.2(2)(o).

[A Note was added after number 68](#) to reflect an amendment in Bill C-28. The amendment will add audiologists, after February 18, 1997, and medical doctors, for taxation years that end after November, 1991, to the list of individuals who can prescribe the purchase of or provide services that qualify as qualifying medical expenses.

[Number 70](#) has been revised to note that the National Training Act was repealed by S.C. 1996, c.23 effective January 1, 1998.

[A Note was added following number 70](#) to reflect an amendment in Bill C-28. The amendment, which applies for the 1997 and later taxation years, removes the \$5,000 maximum limit from the attendant care expense deduction in section 64.

[Number 72](#) has been expanded to describe an amount that is reasonable for the purposes of subsection 6(16).

New [number 73](#) reflects an amendment contained in Bill C-28. The amendment, which applies for the 1997 and later taxation years, provides for a refundable medical expense tax credit for individuals who earn at least \$2,500 in the year from all offices, employments and businesses.

New [number 74](#) describes a proposed amendment contained in the 1998 Federal Budget. The amendment expands the list of expenses eligible for the medical expense tax credit for the 1998 and later taxation years to permit, in certain circumstances, a credit for the training of an individual to provide care for a related individual.

[A Note was added following the Appendix](#) to reflect a comment in the Explanatory Notes Relating to Income Tax which was published by the Minister of Finance in connection with Bill C-28. The Explanatory Notes describe that in certain circumstances, an amount, in 1997 and later taxation years, can be treated as a medical expense in respect of the acquisition cost of an air conditioner.

Throughout the bulletin, we have made minor changes for clarification or readability purposes and deleted comments that are no longer relevant as a result of the passage of time.

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