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AND THE STATUS OF DISABLED PERSONS.

As true as taxes.

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House of Commons  
Canada

# **AS TRUE AS TAXES: DISABILITY AND THE INCOME TAX SYSTEM**

## **REPORT OF THE STANDING COMMITTEE ON HUMAN RIGHTS AND THE STATUS OF DISABLED PERSONS**

**Bruce Halliday, M.P.  
Chairman**

**March 1993**



**AS TRUE AS TAXES:  
DISABILITY AND THE INCOME TAX  
SYSTEM**

*It was as true, as taxes is,  
And nothing's truer than them.*

**REPORT OF THE STANDING COMMITTEE ON  
HUMAN RIGHTS AND THE STATUS OF  
DISABLED PERSONS**



**Bruce Halliday, M.P.  
Chairman**

**March 1993**



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Chairperson: Bruce Halliday

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*Procès-verbaux et témoignages du Comité permanent des*

## Human Rights and the Status of Disabled Persons

## Droits de la personne et de la condition des Personnes handicapées

RESPECTING:

Pursuant to Standing Order 108(3)(b), consideration of questions relating to Disability and the Income Tax System

CONCERNANT:

Conformément à l'article 108(3)b) du Règlement, étude de la question des mesures fiscales relatives aux personnes handicapées

INCLUDING:

The Third Report to the House

Y COMPRIS:

Le Troisième rapport à la Chambre

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(See back cover)

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1991-1992-1993

STANDING COMMITTEE ON HUMAN RIGHTS AND THE STATUS OF DISABLED PERSONS

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Neil Young

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COMITÉ PERMANENT DES DROITS DE LA PERSONNE ET DE LA CONDITION DES PERSONNES HANDICAPÉES

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*Vice-présidents:* Jean-Luc Joncas  
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Membres

Terry Clifford  
Louise Feltham  
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*La greffière du Comité*

Lise Laramée

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# THE STANDING COMMITTEE ON HUMAN RIGHTS AND THE STATUS OF DISABLED PERSONS

has the honour to present its

## THIRD REPORT

In accordance with its mandate under Standing Order 108(3)(b), your Committee examined the questions relating to Disability and the Tax System, and has agreed to report the following:

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universality should prevail, it behooves us to realize that some 2,000,000 Canadians, disadvantaged by reason of disability and who need help the most are at the same time denied the benefits of universality by applied to opportunities for accessibility, employment, housing, human rights, mobility etc.

It follows then, that in order to find adequate funds for the disadvantaged, the Government and Canadians should re-examine their spending priorities and thereby find monies which are currently being spent on programs which are directed to those who are neither physically, mentally nor functionally handicapped.

The Members of the Obstacles Committee went on to make a series of recommendations to the government, including several that dealt with reforming the tax system to take the exceptional costs of disability into account. Some of these recommendations have been acted upon, others have not. In preparing *As True As Fair*, the Members of this Committee are trying to look forward—not back. And it is time, thirty years later, to re-examine the issues surrounding income security and personal supports for persons with disabilities. But now, we are not dealing with the 2,000,000 Canadians at the time of *Obstacles*, but with 4,200,000 of our fellow citizens.



## AS TRUE AS TAXES

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### PLUS ÇA CHANGE...

The *Obstacles* report taught Canadians and their governments many lessons about the nature of disability and its effects on their fellow citizens. It helped us realize that disability in Canada is as true, or as real, as taxes. Our predecessors, also recognized in the introduction to *Obstacles* that there are important linkages between tax policy and disability policy:

...we appreciate the difficulty in expecting to find adequate sums of new money for innovative programs, some of which will cost significant amounts.

Recognizing the expressed desire of the Government and others "to help those who need it most" and, acknowledging the conviction of many that the concept of universality should prevail, it behooves us to realize that some 2,000,000 Canadians, disadvantaged by reason of disability and who need help the most are at the same time denied the benefits of universality as applied to opportunities for accessibility, employment, housing, human rights, mobility etc.

It follows then, that in order to find adequate funds for the disadvantaged, the Government and Canadians should reassess their spending priorities and thereby find monies which are currently being spent on programs which are directed to those who are neither physically, mentally nor financially handicapped.<sup>1</sup>

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<sup>1</sup> *Obstacles: Report of the Special Committee on the Disabled and the Handicapped*, February 1981, p. 6.

## OUR PURPOSE

The Standing Committee has two aims in preparing this report:

1. Relating the overall operation of the tax system to social policy issues that directly affect persons with disabilities.
2. Addressing specific taxation issues that the Standing Committee feels ought to be dealt with (rationale, effects, achievements and alternatives).

## DISABILITY, SOCIAL POLICY AND THE DEPARTMENT OF FINANCE

The issues that confront people with disabilities are more complicated than most social and economic questions that our society currently faces. Unlike many other social issues or problems confronting other groups in our society, disability involves permanent costs that are not recognized. Solutions to disability-related issues demand greater cross-sector, cross-jurisdictional and cross-departmental collaboration than exists at the present time.

We hope that the government's decision in December 1992 not to cut back funding for disability reflects more than the wishes of the Minister of Finance. It should also mirror the realization of officials in the Department that there is a lot of catching up to do. Social policy cannot be made successfully by officials working in ivory (or glass) towers. Because the Department's position is a critical one, senior (and junior) officials from the Department should be actively involved in discussions with the community, with other levels of government and with individuals. The great social programs of the 1940's and 1950's were devised by people who had personal experience with the effects of the Depression and who shared a belief that a better society might emerge from the Second World War. We hope that in rising to the challenges of our own times, their successors have the same imagination and breadth of vision.

Canada has made great progress in providing funding for disability. The Department of Finance estimates that government programs spent \$7.5 billion on disability in the year 1989 alone.<sup>2</sup> Other estimates of the full cost of disability to society raise the total to \$19 billion (1986 dollars).<sup>3</sup>

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<sup>2</sup> The programs include provincial social assistance of \$2.5 billion (of which one-half was federally-funded through the Canada Assistance Plan); Workers' Compensation, \$1.3 billion; Canada and Quebec Pension Plans, \$1.75 billion and [arguably] Old Age Security and Guaranteed Income Supplement \$2.3 billion. (Source: Department of Finance, *Disability Tax Credit: Evaluation of Recent Experience*, December 1991, p. 6.)

<sup>3</sup> The Roehrer Institute cited the following figures in 1986 dollars: annual value of time lost due to long-term disability, \$13.9 billion; annual value of time lost due to short-term disability, \$2 billion; Workers' Compensation disability pensions, \$2 billion; Workers' Compensation health care benefits, \$380.8 million; CPP/QPP disability benefits, \$949 million; UI sickness benefits, \$242 million.

Obviously, these costs have increased and the Roehrer's statistics are that CPP/QPP disability benefits have risen to \$3.9 billion in 1989 and that the cost of Workers' Compensation will rise to \$7 billion by 2000.

Other financial costs include: provincial welfare and social services costs relating to people hampered in their efforts to integrate/re-integrate into the labour force; costs to private long and short term disability insurance plans; administrative costs; out of pocket expenses that are not reimbursed; costs in terms of tax potential of the failure to encourage employment; lower productivity (measured by time on the job) of people not adequately supported in employment.

And yet, as a Committee that has studied disability-related issues, we wonder whether we are getting full value for the money that is spent, or even recognize the potential that is wasted. No matter how good a program is, it is not going to work if there is another program that is countering its impact.

The Department of Finance is the centre of Canada's financial planning, yet it is notably absent from the structures and mechanisms that are grappling with the costs and consequences of disability. The Department's decisions have a profound impact on all governments — federal, provincial and municipal: decisions about spending that do not involve the Department can ultimately prove fruitless. Participation of central agencies of government in the National Strategy for the Integration of Disabled Persons is essential if the government is serious about making the Strategy work.

### **RECOMMENDATION 1**

**The Department of Finance should become a full and active partner in the National Strategy for the Integration of Persons with Disabilities.**

## **TAXATION AND THE COST OF DISABILITY**

Disability involves costs — to governments and society as a whole, but most importantly, to disabled persons themselves. The tax system provides one — but far from the only — way of assisting persons with disabilities to meet these unavoidable costs.

In Canada, the federal government has recognized the additional costs of disability by providing tax relief, in one form or another, since 1930. That year, the government made allowances through the sales tax and customs tariff for certain articles for people with mobility impairments or for those who were blind. Since 1942, the income tax system has provided for certain relief for medical expenses for all Canadians, including people with disabilities. Income tax changes in 1944 provided blind people with the first disability-related deductions based on the additional costs that they had to incur.

In the years that followed, the same factors that provoked these initial steps towards tax relief have served as arguments to extend it. The dollar limits and the income threshold for claiming the medical expenses deduction have become more liberal<sup>4</sup> since, as the Minister of Finance said in 1961, “the whole purpose of the deduction for medical expenses is to give relief to those taxpayers whose ability to pay has been reduced by extraordinary expenses. . .”<sup>5</sup> The tax system has also increasingly allowed for the transferability of medical expenses or disability tax benefits. These

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<sup>4</sup> The income threshold above which deductions are permitted was reduced from 5 per cent in 1942 to 4 per cent in 1944 to 3 per cent in 1953.

<sup>5</sup> Department of Finance, *Budget Speech*, 1961, p. 25.

changes recognize that disability-related expenses may be incurred by another taxpayer for a close relative with a disability who has little (or no) taxable income. In 1985, the government extended the disability deduction to all Canadians who were "markedly restricted in activities of daily living."<sup>6</sup>

The tax reforms in 1988 changed both the medical expenses deduction and the disability deduction into tax credits. The disability deduction was converted into a non-refundable tax credit of \$550 for that year and the Medical Expenses Tax Credit (METC) was 17 per cent of eligible medical expenses in excess of the lesser of 3 per cent of net income or \$1500. The 1991 Budget increased the amount of the disability tax credit from \$575 to \$700 for 1991.<sup>7</sup> This budget also proposed to give the Disability Tax Credit (DTC) legal weight by including it in the *Income Tax Act*.<sup>8</sup> In addition, a taxpayer may claim a non-refundable credit for a dependent disabled child who is over 18 (the limit for non-disabled children). This claim is reduced if the dependent earns income above a specified threshold. Also, child care expenses for severely disabled children are treated more generously than for non-disabled children.

Many recent changes affecting people with disabilities have applied the philosophy that the *Income Tax Act* should allow increased participation of disabled persons in the workplace. The Act has been modified to provide greater recognition of expenses incurred to earn income or to permit disabled persons to enter the workplace. In 1989, for example, the federal Budget permitted an individual who is eligible for the Disability Tax Credit to deduct the non-reimbursed costs of a part-time attendant needed for a disabled person to work.<sup>9</sup> To improve the educational opportunities of people with disabilities, and to foster their economic participation, the 1992 Budget made education and tuition fee tax credits available to part-time students with disabilities who attend post-secondary institutions.<sup>10</sup>

To assist and to encourage the accommodation of disabled customers or employees, the 1991 Budget allowed businesses to claim the full cost of retrofitting buildings for disabled persons. This included devices such as ramps, hand-activated power door openers, alterations to bathrooms and

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<sup>6</sup> The government's action was, at least in part, spurred by a series of court decisions. The disability tax deduction had initially been restricted to people who were blind and then extended in 1949 to people who used a wheelchair or had to remain in bed. In 1983, a taxpayer who was paralysed from the waist down on his left side had been refused the deduction because he did not ordinarily use a wheelchair as required by the legislation. The taxpayer appealed to the Tax Review Board and argued that he required the assistance of others or the use of a leg brace to move about. The appeal was upheld on the grounds that if left completely alone without aid or assistance, he would have had to remain in bed (*Overdyk v. M.N.R.* 83 DTC 307 [1983] CTC 2361).

<sup>7</sup> This results in a \$1085 credit when provincial tax is taken into consideration.

<sup>8</sup> The reason for this may, in fact, be less generous than first appears. In several appeals by taxpayers against Revenue Canada decisions to disallow claims for a disability tax credit, judges have ruled against the department and indicated that they would not be bound by guidelines setting out eligibility for the credit (i.e. who was markedly restricted in the activities of daily living) that are not included in the *Income Tax Act* or regulations.

<sup>9</sup> This deduction is to allow for the fact that provinces normally cut their subsidies for attendant care when a disabled person earns income. The federal deduction, however, is limited to two-thirds of eligible income (employment, self-employment or training allowances) to a \$5000 maximum. The claim for a part-time attendant does not preclude a simultaneous claim for the Disability Tax Credit.

<sup>10</sup> While the tax credit for tuition fees is available to individuals enrolled full-time or part-time in a qualifying post-secondary educational institution in Canada, the education credit may only be claimed by individuals in full-time attendance.



widened doorways. Last year, the Budget extended the list of devices eligible for immediate write-off for costs. Currently, businesses can also claim elevator car position indicators (braille panels, audio indicators for those with visual impairments), visual fire alarms, telephone devices, and listening devices for group meetings for people with hearing disabilities; as well as disability-specific software and hardware for computers.

In order to create greater equity between recipients of Canada or Quebec Pension Plan (CPP/QPP) and private pension plan recipients, the 1992 Budget changed the definition of "earned income" for purposes of contributions to a Registered Retirement Savings Plan. Since the last budget, CPP/QPP disability payments have been treated as earned income so that the 230,000 Canadians who receive them may include them when calculating RRSP contributions.

Recent fiscal measures have also recognized the cost of disability by extending the list of eligible items for the Medical Expenses Tax Credit. The costs of part-time attendant care and renovations to the home to allow mobility-impaired persons to function within their homes now qualify for this tax assistance. The 1992 Budget added new expenses to the credit. These include visual or vibratory signalling devices (i.e. visual fire alarm indicators) for those with hearing impairments and payments for therapy for speech or hearing loss, including training in lip reading and sign language.

All of these changes to Canada's tax system reflect the change in society's view of persons with disabilities. A consensus among Canadians has permitted the tax changes of the past few years to proceed with relatively little opposition or controversy. As the Coalition of Provincial Organizations of the Handicapped (COPHO) noted in its pre-budget brief in 1991, these changes reflect a general recognition that:

1. the costs and constraints produced by a person's disability are real;
2. all programs that have a social component, including the income tax system, should be designed to alleviate the disadvantage experienced by people with disabilities in an equitable and fair manner; and
3. these programs should enhance the independence, and particularly the employment opportunities of disabled people.<sup>11</sup>

From June 1989, when this Committee began to study the economic integration of people with disabilities, the community has been making recommendations and representations about the need for tax reforms. During the past few years, the issue has been raised directly by the Canadian

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<sup>11</sup> Coalition of Provincial Organizations of the Handicapped, "COPHO's Recommendations for Tax Reform," 1991, p. 2.

Association of the Deaf, by the Canadian Association for Community Living, and repeatedly by the Canadian Paraplegic Association and COPOH.<sup>12</sup>

Lately, COPOH and the Canadian Paraplegic Association (CPA) have shown increasing frustration in their briefs to this Committee that larger or more comprehensive tax measures have not better reflected the progressive shift in Canadians' attitudes towards disability.

## EFFECTIVENESS OF CURRENT TAX MEASURES

Tax specialists make much of the principle of horizontal equity as the motivation for the disability tax credit. This is the principle that "likes" should be treated alike for tax purposes. When applied to disabled persons, it means that their ability to pay tax should be calculated after taking into account the expenditures related to their disabilities. These expenditures may be necessary to earn income or to attain the same standard of living as an able-bodied person. Vertical equity, according to tax experts, implies that the tax system should play a role in ensuring that the 'better-off' should bear a relatively greater burden of taxation. In this redistribution, vertical equity must be looked at in relation to other income support programs for persons with disabilities. Both of these principles of taxation have implications beyond the strict application of current tax rules and involve notions of social justice and equality that should come into play in dealing with disability and its costs.

In order for Canada's tax system better to reflect the notions of vertical and horizontal equity, the Committee recommends that:

### RECOMMENDATION 2

Changes to the tax system should reflect the following principles:

- a. the taxes that people with disabilities pay should be reduced by measures that off-set all their disability-related costs;

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<sup>12</sup> On 20 June 1989, COPOH recommended that "tax reform that allows for employee and employer adjustments to cover the additional cost of disability." (*Minutes of Proceedings and Evidence*, [hereafter *Proceedings*], 7:83). In addition, COPOH proposed refundable tax credits for disabled persons. (*Proceedings*, 7:80).

That same day, the Canadian Association of the Deaf recommended that "the Minister of Finance should come [before the Committee] to outline how he intends to solve the issues related to the tax benefits and the incentives." (*Proceedings*, 8: 13). The Canadian Paraplegic Association also proposed "tax incentives in which the true cost of disability could be deductible or credited." (*Proceedings*, 7: 44).

On 15 May 1990, the Canadian Paraplegic Association presented a comprehensive plan for tax changes including the way that tax credits are calculated and the need for tax deductions to employers for workplace renovations. (*Proceedings*, 24: passim).

On 12 March 1991, the Canadian Association of Community Living noted that it had made representations to the Department of Finance to deal more comprehensively with disability-related expenses (*Proceedings*, 43: 18). CACL raised the issue of tax credits again on 27 September 1991 (*Proceedings*, 4:49).

On 27 September 1991, the *Regroupement des aveugles et des amblyopes du Québec* recommended that income tax information be available in alternate formats (*Proceedings*, 4:85).

- b. the tax system should be used as the delivery mechanism for benefits to lower-income individuals with a disability;
- c. the tax system should be used to remove or reduce the disincentives for disabled people to join the workforce.

Obviously, this Committee agrees wholeheartedly with the principle of horizontal equity, particularly in its broadest application. This does not however, prevent us from having some questions about gaps or failings in the way it has been translated into practice.

Why are less than 10% of those who identified themselves as disabled for the purposes of the 1991 census claiming the disability tax credit? The 1991 Health and Activity Limitation Survey (HALS) resulted in 4,200,000 Canadians reporting a disability. The 1986 HALS "severity index," classifies 549,352 adults in households (out of 2,794,552) as severely disabled. And yet, the tax statistics prepared by the Department of Finance noted that in 1990, only 355,840 taxpayers claimed the Disability Tax Credit.<sup>13</sup>

Perhaps the most salient reason is that disabled people are too poor to benefit from the deduction. (This report deals with that issue in the section "Looking Forward".)

How many people with disabilities are aware of the tax provisions that benefit them? To have a disability means to have a restriction, physical, mental or learning. Many of these restrictions result in a limited ability to gain access to information. More people who are entitled to a Disability Tax Credit will exercise their rights if they know about them. The Chief Electoral Officer provided this Committee with a demonstration of the ways in which information could be comprehensively disseminated to ensure that people with disabilities have the opportunity to exercise their franchise. The technology is available; it can be done.

How consistently are the tax criteria for people with disabilities applied by medical practitioners? The whole process of applying for a Disability Tax Credit is highly discretionary and depends upon medical recommendations. This invites a hit or miss system that permits situations where people with the same severity of disability are, in fact, treated differently.

The Committee believes that this situation should be rectified in such a manner that disabled persons are given the same level of access to tax information as other taxpayers. We recommend that:

<sup>13</sup> The number of people who received tax consideration as a result of their disability has grown from 85,000 in 1985 (when the definition was restricted to those who were blind, used a wheelchair or bed-ridden) to 180,000 in 1986 (the first year that the "markedly restricted" definition was applied. The number increased again to 256,000 in 1987, 307,000 in 1988, 351,000 in 1989, and 410,000 (estimated) in 1990. (The actual number was less than estimated at 355,840) The Department of Finance has reported that although individuals over age 65 represent only about 40 per cent of the DTC recipients, they account for nearly 60 per cent of the increase in claims since 1986.

The total federal and provincial tax cost of the credit was about \$230 million in 1989 and the federal government's share of this was about \$150 million.

(Department of Finance, *Disability Tax Credit: Evaluation of Recent Experience*, December 1991, pp. ii, 4).

### RECOMMENDATION 3

**The Department of Finance and the Department of National Revenue should undertake an information campaign to publicize the availability of, and the criteria that apply to, medical and disability-related provisions in the income tax system. All information, both for medical practitioners and for people with disabilities, should be available in alternate formats and, for people with mental handicaps, in plain language. Relevant tax forms should be available in alternate formats.**

This recommendation responds to part of the problem. But it is not enough. Recent court decisions have demonstrated that the tax system has yet to deal adequately with the definition of "markedly restricted in the activities of daily living" that is used for purposes of the Disability Tax Credit. Most of the appeals filed by taxpayers have pitted the opinion of the claimant's doctor against that of medical practitioners working for the Department of National Health and Welfare. In several of these cases, a taxpayer was certified as "severely" disabled but not "markedly restricted." While Revenue Canada estimates that 15 per cent of the DTC claimants do not meet eligibility criteria, the courts do not seem to agree. Assuming that Revenue Canada took its most "winnable" cases to court, the department challenged six different Disability Tax Credit claims in 1989 and 1990. Nonetheless, the courts ruled against the department in four of the six cases.

In the midst of these battles among the accountants, lawyers and doctors, the views of the other experts — disabled persons, themselves — are discounted. In representations to this Committee, people with disabilities focus less on the applicable medical criteria than upon the barriers within our communities that prevent full participation of persons with a disability. COPOH has also pointed out that the present definition that is used for tax purposes places an emphasis on physical disability and does not adequately deal with the issue of mental handicap and, the Committee would add, learning disability. Disabled persons have further made the case that the definition of disability for purposes of the Disability Tax Credit does not include some activities of daily living where a disabled person might require support. COPOH believes that to exclude these areas from the definition is to misunderstand the disadvantage experienced by persons with a disability and the nature of disability itself.

The Department of Finance puts forward the case that the definition for tax purposes is analogous to the definition of disability in the Health and Activity Limitation Survey carried out by Statistics Canada. But any comparison between the census results and the DTC claimants reveals the obvious limitations of the Department's ability or willingness to reflect in tax policy the way that Canadians themselves view disability. This situation results in frantic lobbying by disability groups prior to each federal budget in efforts to convince officials to expand the medical conditions that are automatically included in the definition. A comprehensive solution would save a lot of time and energy.

As a result of these considerations, the Committee recommends that:

#### **RECOMMENDATION 4:**

**The Department of Finance and representatives of the disability community, in collaboration with the Department of National Revenue (Taxation) and the Department of National Health and Welfare, should review and refine the definition of disability and its practical application that determines eligibility for the Disability Tax Credit.**

#### **RECOMMENDATION 5:**

**The Department of National Revenue should establish a process that includes the participation of disabled persons to review any claim for a Disability Tax Credit prior to any denial of a claim. For example, the best vehicle for this process could be a tribunal that includes at least one person with a disability.**

The Committee is aware of another astonishingly low number: only about 1% of all Canadians with disabilities or 40,000 recipients of the Disability Tax Credit claim for a Medical Expenses Tax Credit. The Department also estimates that 45% of the expenses of those with severe disabilities are not eligible to be itemized under the METC because the disability-related component of the expenditure is difficult to separate from the "consumption-related" elements. The Department further argues that the Disability Tax Credit deals with this problem "since the amount of the assistance [under the DTC] does not vary with the magnitude of expenditures."<sup>14</sup>

Although the Department of Finance attributes the low use of the METC to the utility of the Disability Tax Credit and to broad coverage of disability expenses by government health insurance and other non-tax programs, this Committee believes that this answer is incomplete. It begs the question.

The Medical Expenses Tax Credit is not used because it is cumbersome and non-inclusive. Many items and services that a person with a disability requires to function are not on the prescribed list as set out in Regulation 5700 of the *Income Tax Act*. For example, a person with a hearing impairment might require an interpreter; a person who is visually impaired may require a reader.

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<sup>14</sup> Department of Finance, *Disability Tax Credit: Evaluation of Recent Experience*, Department of Finance, December 1991, pp. iii-iv. This document argues that the "DTC more than makes up for the excluded categories of expenses and the effects of the minimum-expense threshold of the METC. It provides aggregate compensation that is substantially greater than the tax assistance severely disabled people would receive if all their disability-related expenses were able to be itemized under the METC and if the minimum-expense threshold for the METC were removed.

The DTC provides assistance for expenses beyond the rate provided by the METC, which for federal and provincial income tax combined, is limited to about 26 per cent of the expenses." The Department believes that increases in the amount of the credit will further "increase the assistance provided by the credit in comparison to the disability-related costs incurred by severely disabled persons."

Apart from this, it takes many years for a particular service or item to receive the blessing of the appropriate government officials for it to make the list of approved medical expenses. The process of approving tax deductible items is not keeping up with technological advances in the disability area; officials end up approving obsolete items. A fixed list has inherent problems which grow particularly acute when the "real world" is changing rapidly.

The Committee recommends that:

#### **RECOMMENDATION 6:**

**The regulation which establishes the list of eligible medical expenses should be expanded and updated on a yearly basis by a Committee that specifically includes persons with disabilities, in addition to government officials.**

### **LOOKING FORWARD**

In order to assure a better future for people with disabilities, we urge the government to do more than the bare minimum that we have requested above. The reasons for this are plain enough.

As a group, disabled Canadians are poorer than their fellow citizens and among the poorest of the poor. If poverty is defined as having an income of \$10,000 or less, according to 1985 figures, 15.5% of all Canadians could be defined as poor. But for people with disabilities the figure rises to 63%. Over 80% of women with disabilities earned \$10,000 or less, and almost 60% claimed to have earned nothing.

While this report focuses on the tax system, this Committee recognizes that tax reform can provide no panacea unless it is devised with a view to the general question of advancing the economic integration and participation of people with disabilities. Over and over and over again, individuals, groups, experts, service providers, employers and even government departments have emphasized that taxation cannot be separated out from other elements of income and personal support as well as from the provision of goods and services.

Economic participation must proceed with the incentives and support spread across the whole of society and the whole of government. When disability-related programs are not integrated into other job-creation or social assistance programs, the "welfare" assumptions tend to overwhelm, diminish or eliminate progress. Disabled people become subject to penalties as a result of their disabilities. Where money is allocated by means of grants, it creates competition not coordination. Targeting disabled people who are assured of "success" (in conventional terms), does not deal with the issue of need. Government must address these interrelationships if social justice is to be achieved.<sup>15</sup>

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<sup>15</sup> For a discussion of these issues see the presentations to this Standing Committee by the Roehrer Institute (*Proceedings*, 28, 11 February 1993) and by Professor Jerry Bickenbach, (*Proceedings*, 42, 13 December 1990). See also the presentation by Pierre Vennat, President of the *Commission consultative sur la situation des personnes handicapées du Québec* (*Proceedings*, 4:7, 27 September 1991).

How can our society remove the disincentives to economic participation that currently confront disabled persons? For example, because of the costs associated with a disability, people with disabilities need to be able to “risk” employment, without risking the ability to provide for their daily needs. As it currently stands, people with disabilities who benefit from income supports and who then accept a job, likely lose a range of services that are non-negotiable aids to daily living — support services, drugs, technical devices. These are not luxuries. People with disabilities who accept a job need to know that it is for the long-term, that it will exceed the cost of the services required to deal with their disability, and that it will leave them some money to live on. People who receive social assistance cannot, even if they wish, accept part-time work without jeopardizing all of their benefits. The same can be said for Canada Pension Plan disability benefits.<sup>16</sup>

Social policy analysts who have appeared before this Committee have brought a unanimous message. Tinkering will not work. Professor Jerry Bickenbach told us that “...any incrementalist strategy is doomed to failure... Any attempt at fine-tuning specific aspects of the policy will have no effect on the unquestioned normative assumptions that are built into the bureaucratic structures which administer the policy. This is an institutional, not just an ideological phenomenon. It is built into the very divisions of departments at the various levels of government.”<sup>17</sup> Marcia Rioux of the Roeher Institute put it another way. “These programs,” she said, “are working against each other. They’re actually destroying the benefits of one another. Cumulatively, they might be quite spectacular ... but no matter how good a program is, it’s not going to work if you have some other program countering its impact.”<sup>18</sup>

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<sup>16</sup> During our hearings in Calgary in 1990, Mr. Russ Brocklehurst, Project Manager, Calgary Action Group of the Disabled, provided us with the results of a report that he had prepared on 1988 tax returns and social assistance programs. He told this committee that “it involved a single individual, a paraplegic, age 34, earning \$10.27 an hour. His net take-home income per month was negative \$156 due to the means-testing program. If that person had stayed home and received government assistance, his real income would have been a little over \$1400.” (*Proceedings*, 34:77, 28 September 1990).

Irene Feika, who was Chair of COPOH, told the Committee that “my medicines cost \$500 a month; for me to be employed I need to be in a situation where I am being well paid, where I have a good benefit package in order to make it worthwhile to work. For many people that is a disincentive. If your technical aids, if your attendant care is part of that disability pension, it is not worthwhile working in many instances because you will have less disposable income than if you stay on a pension, so it becomes a disincentive.” (*Proceedings*, 27:17, 24 May 1990).

Rob McInnes, the Executive Director of the Canadian Council on Rehabilitation and Work, reported to our Committee that “as for disincentives to work, employers are realizing that the disincentives to employment that disabled persons face contributed to the perceived lack of available job candidates.” (*Proceedings*, 20:7, 26 April 1990).

Brian Bertelsen reported that “When talking about unemployment, we must do so with a broader scope about the programs that assist the person with the disability through their adolescence, in obtaining an adequate education and in learning the life skills necessary to live independently, and to then obtain employment when they reach adult age. A lot of programs unfortunately create disincentives to independence and to the learning of necessary life skills, simply by their nature, in terms of not allowing the individual to earn outside income in any amount without losing benefits.” (*Proceedings*, 29:22, 31 May 1990).

Mario Bolduc of the *Commission consultative sur la situation des personnes handicapées du Québec*, recommended that “income security systems should be changed to make going to work more interesting and motivating. People living off the social safety net are often not keen to accept casual employment. By doing so, they may even incur losses.” (*Proceedings*, 4:14, 27 September 1991).

<sup>17</sup> *Proceedings*, 42:13, 13 December 1990.

<sup>18</sup> *Proceedings*, 28:29, 11 February 1993.

This Committee, therefore, recommends that:

#### **RECOMMENDATION 7:**

**The government should link principles of taxation that remove disincentives to economic participation and that provide a comprehensive means of ensuring social and economic equity with any review of social policies that deals with people with disabilities. Any such review of social policy should include the participation of the Department of Finance.**

This Committee also believes that the Department of Finance can take further steps to reform the tax system so that it deals more equitably with disability. It is not too much to expect that the principles that we outlined above (see Recommendation 2) can be incorporated into further tax changes.

One contentious issue involves the question of the “consumption related” element in goods and services that a disabled person may require. The arguments have been put most recently in the discussion surrounding Bill C-277, a private member’s bill that proposes to amend the *Income Tax Act* to allow the cost of an air conditioner required for health reasons to be eligible for the Medical Expense Tax Credit.<sup>19</sup>

The Department of Finance does not support the proposed amendment to the *Income Tax Act* because it feels that the Medical Expense Tax Credit, itself, forms an exception to the principle that disallows tax assistance for personal expenses. The METC, therefore, is limited to expenses specifically enumerated in the *Income Tax Act* as necessary to alleviate or improve an individual’s medical condition. To qualify for inclusion in the METC, therefore, the Department argues that a good or service must be designed primarily to deal with a medical condition and for the use of the person with a medical condition (i.e. dialysis machines, wheelchairs). The Department argues that because air conditioners (along with other consumer goods — even swimming pools) are not designed for medical purposes, nor limited in use and benefit to people with medical problems, claims for them should not be allowed in the METC.

Members of the National Steering Committee of Farmers with Disabilities drew the attention of this committee to a different angle of the same problem. For example, a farmer may require a specific auger that has features necessary for a disabled person to operate it. In most cases, this equipment is more expensive than other models but the farmer opts for the costlier equipment because it alone permits independent operation. Again, these pieces of equipment are not disability-specific. Nonetheless, they do represent additional costs for a disabled farmer who wants to operate independently and the extra costs erode a diminishing farm income.

In addition, the current tax structure does not allow disabled farmers to deduct, as a business expense, machinery such as lifts for tractors (that can cost up to \$18,000) and modifications to workshops. Disabled farmers need these items to earn income. By only allowing these expenses to be

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<sup>19</sup> For a full description of the Bill see, David Johansen, *Bill C-277: An Act to Amend the Income Tax Act (Air Conditioners)*, Legislative Summary, Research Branch, Library of Parliament, 17 December 1992.



deducted at a reduced rate as part of the Medical Expense Tax Credit, the Department of National Revenue is discriminating against farmers, as operators of businesses. They are not being treated in the same manner as other businesses which have been allowed, since the implementation of the 1991 Budget, to claim the full cost in the year it is incurred, of retrofitting for disability purposes.

This Committee supports the arguments that prompted the introduction of Bill C-277, and the representations of farmers with disabilities. At the same time, we recognize that the government must strive towards a more comprehensive solution to the problems associated with the Medical Expenses Tax Credit.

Currently, the income tax system contains a hierarchy of benefits. For people who pay a minimum amount of tax, non-refundable tax credits like the current Disability Tax Credit and the Medical Expenses Tax Credit are worth more than tax exemptions or deductions. But the amount of the non-deductible DTC is the same for all claimants regardless of the nature, severity or costs of the disability — or of the income level of those who are eligible. This means that a non-refundable tax credit benefits poor people less than a refundable credit. The non-refundable credit is subtracted from taxes that are owed and can only reduce the taxes to zero. Given the wide variation of costs that disabled persons face in their activities of daily living, the current Disability Tax Credit will undercompensate in many cases and overcompensate in others. An increase in the credit amount would benefit all taxpaying claimants (some of whom may not need additional compensation). If someone owes no taxes, a non-refundable tax credit might as well not exist.

A refundable tax benefit, on the other hand, has positive consequences for a far larger number of people. If a taxpayer subtracted the credit from the taxes owing and came up with a negative balance, the claimant would receive a refund equivalent to that negative balance.

Refundable credits, therefore, provide the greatest benefit to very poor people. Opponents to making the Medical Expenses Tax Credit and the Disability Tax Credit refundable point to the welfare system as a source of goods and services. Up to a point, this may be true. But it ignores the fact that people with disabilities are being forced to go on welfare as a means of gaining access to goods and services that they cannot afford. It also ignores the interconnected nature of the disincentives to economic participation that confront people with disabilities. Furthermore, Canadians everywhere recognize that the welfare system in this country is overburdened. To rely only on it is to put trust in a shaky support. People with disabilities have a right to stronger guarantees.

This Committee feels that the government should take another look at broader tax measures that would better accommodate the concerns of people with disabilities. Among the measures that we feel would lead to improvements in the lives of people with disabilities are those that separate out items that are needed for purely medical purposes from those that are intended to help disabled persons in their "activities of daily living." This would respond to the arguments of disability advocates that not all the costs associated with disability are medical. It would deal, for example, with the issues that have been discussed regarding Bill C-277 and the problems of farmers with disabilities. We also believe that the tax system should specifically recognize the significant costs of disability that are not currently compensated for by the Disability Tax Credit. Again, we seek to

move away from the holus-bolus application of the medical model to people with disabilities. This Committee believes that it is possible to provide for some of the extraordinary costs of disability without undermining the rest of the tax system.

This Committee pointed out at the outset of this report, that we recognize the desire of the government “to help those who need it most,” and we recommended that:

- a. the taxes that people with disabilities pay should be reduced by measures that off-set all their disability-related costs;
- b. the tax system should be used as the delivery mechanism for benefits to lower-income individuals with a disability.
- c. the tax system should be used to remove or reduce the disincentives for disabled people to join the workforce.

Logically, then, we also recommend that:

#### **RECOMMENDATION 8:**

- a. **The government should create a new Disability Expenses Credit for disability-related goods and services that is separate from the Medical Expenses Tax Credit. In establishing this new credit, the government should consider reducing or eliminating the three per cent limit that currently applies to the Medical Expenses Tax Credit. The new Disability Expenses Credit should specifically make provision for favourable tax treatment of employment-related expenses.**
- b. **The government should, therefore, establish a list separate from the list for the Medical Expenses Tax Credit of eligible expenses for people who claim the Disability Expenses Tax Credit. This list could include more general expenses than those available in the regulation for the Medical Expenses Tax Credit.**
- c. **Disability tax credits should be made refundable.**

## LIST OF ACKNOWLEDGEMENTS

### RECOMMENDATION 1

In the preparation of any report, Committees of the House of Commons require the assistance of a great number of people.

In this particular instance, we have been very fortunate to be able to renew an acquaintanceship and to secure the wise counsel of Sherri Torjman. Ms. Torjman, a respected consultant in the area of social policy, worked with our predecessors who sat on the Special Committee that prepared *Obstacles*. It has been our good fortune to be able to call upon her wisdom again.

Likewise, and as in the past, we have been able to rely on the knowledge of procedure and the administrative skills of our Committee Clerk, Lise Laramée. Our senior researcher, William Young, has continued to assist us with his understanding of the issues and provided us with the research and drafts that have made this report possible.

6. The tax credits mechanism should be used to remove or reduce the disincentives for disabled people to join the workforce. (Page 6)

### RECOMMENDATION 3

The Department of Finance and the Department of National Revenue should undertake an information campaign to publicize the availability of, and the criteria that apply to, medical and disability-related provisions in the income tax system. All information, both for medical practitioners and for people with disabilities, should be available in alternate formats and, for people with visual handicaps, in plain language. Relevant tax forms should be available in alternate formats. (Page 8)

### RECOMMENDATION 4

The Department of Finance and representatives of the disability community, in collaboration with the Department of National Revenue (Taxation) and the Department of National Health and Welfare, should review and refine the definition of disability and its practical application that determines eligibility for the Disability Tax Credit. (Page 9)

### RECOMMENDATION 5

The Department of National Revenue should establish a process that includes the participation of disabled persons to review any claim for a Disability Tax Credit prior to any denial of a claim. For example, the best vehicle for this process could be a tribunal that includes at least one person with a disability. (Page 9)



# LIST OF RECOMMENDATIONS

## RECOMMENDATION 1

The Department of Finance should become a full and active partner in the National Strategy for the Integration of Persons with Disabilities. (Page 3)

## RECOMMENDATION 2

Changes to the tax system should reflect the following principles:

- a. the taxes that people with disabilities pay should be reduced by measures that off-set all their disability-related costs;
- b. the tax system should be used as the delivery mechanism for benefits to lower-income individuals with a disability;
- c. the tax system should be used to remove or reduce the disincentives for disabled people to join the workforce. (Page 6)

## RECOMMENDATION 3

The Department of Finance and the Department of National Revenue should undertake an information campaign to publicize the availability of, and the criteria that apply to, medical and disability-related provisions in the income tax system. All information, both for medical practitioners and for people with disabilities, should be available in alternate formats and, for people with mental handicaps, in plain language. Relevant tax forms should be available in alternate formats. (Page 8)

## RECOMMENDATION 4

The Department of Finance and representatives of the disability community, in collaboration with the Department of National Revenue (Taxation) and the Department of National Health and Welfare, should review and refine the definition of disability and its practical application that determine eligibility for the Disability Tax Credit. (Page 9)

## RECOMMENDATION 5:

The Department of National Revenue should establish a process that includes the participation of disabled persons to review any claim for a Disability Tax Credit prior to any denial of a claim. For example, the best vehicle for this process could be a tribunal that includes at least one person with a disability. (Page 9)

#### **RECOMMENDATION 6:**

The regulation which establishes the list of eligible medical expenses should be expanded and updated on a yearly basis by a Committee that specifically includes persons with disabilities, in addition to government officials. (Page 10)

#### **RECOMMENDATION 7:**

The government should link principles of taxation that remove disincentives to economic participation and that provide a comprehensive means of ensuring social and economic equity with any review of social policies that deals with people with disabilities. Any such review of social policy should include the participation of the Department of Finance. (Page 12)

#### **RECOMMENDATION 8:**

- a. The government should create a new Disability Expenses Credit for disability-related goods and services that is separate from the Medical Expenses Tax Credit. In establishing this new credit, the government should consider reducing or eliminating the three per cent limit that currently applies to the Medical Expenses Tax Credit. The new Disability Expenses Credit should specifically make provision for favourable tax treatment of employment-related expenses.
- b. The government should, therefore, establish a list separate from the list for the Medical Expenses Tax Credit of eligible expenses for people who claim the Disability Expenses Tax Credit. This list could include more general expenses than those available in the regulation for the Medical Expenses Tax Credit.
- c. Disability tax credits should be made refundable. (Page 14)

## REQUEST FOR A GOVERNMENT RESPONSE

THURSDAY, FEBRUARY 18, 1993

(61) Your Committee requests that the Government table a comprehensive response to this Report within 150 days of its tabling, in accordance with the provisions of Standing Order 109.

(Text)

A copy of the relevant Minutes of Proceedings and Evidence (*Issue No. 29 which includes this report*) is tabled.

Respectfully submitted,

*Members of the Committee present: Louise Feltham, Beryl Gaffney, Bruce Halliday, Allan Koury and Neil Young.*

*In attendance: From the Research Branch of the Library of Parliament: William Young, Research Officer.*

**BRUCE HALLIDAY, M.P.**

*Chairman*

*In accordance with its mandate under Standing Order 109(3)(b), the Committee resumed consideration of the Economic Integration of Disabled Persons (See Minutes of Proceedings and Evidence dated Thursday, June 13, 1992, Issue No. 2).*

*The Committee proceeded to the consideration of its draft report on Tax Measures for Disabled Persons.*

*At 10:30 o'clock a.m., the Committee adjourned to the call of the Chair.*

TUESDAY, FEBRUARY 23, 1993

(62)

*The Standing Committee on Human Rights and the Status of Disabled Persons met in closed session at 4:10 o'clock p.m. this day, in Room 536, Wellington Bldg., the Chairman, Bruce Halliday, presiding.*

*Members of the Committee present: Louise Feltham, Beryl Gaffney, Bruce Halliday, Jean-Luc Jorcas, Allan Koury and Neil Putney.*

*In attendance: From the Research Branch of the Library of Parliament: Nancy Robson and William Young, Research Officers.*

*In accordance with its mandate under Standing Order 109(3)(b), the Committee resumed consideration of the Economic Integration of Disabled Persons (See Minutes of Proceedings and Evidence dated Thursday, June 13, 1992, Issue No. 2).*

*The Committee resumed consideration of its draft report on Tax Measures for Disabled Persons.*

*At 5:25 o'clock p.m., the Committee adjourned to the call of the Chair.*





## MINUTES OF PROCEEDINGS

THURSDAY, FEBRUARY 18, 1993

(51)

[Text]

The Standing Committee on Human Rights and the Status of Disabled Persons met *in camera* at 9:35 o'clock a.m. this day, in Room 208, West Block, the Chairman, Bruce Halliday, presiding.

*Members of the Committee present:* Louise Feltham, Beryl Gaffney, Bruce Halliday, Allan Koury and Neil Young.

*In attendance: From the Research Branch of the Library of Parliament:* William Young, Research Officer.

In accordance with its mandate under Standing Order 108(3)(b), the Committee resumed consideration of the Economic Integration of Disabled Persons (*See Minutes of Proceeding and Evidence dated Thursday, June 13, 1992, Issue No. 2*).

The Committee proceeded to the consideration of its draft report on Tax Measures for Disabled Persons.

At 10:30 o'clock a.m., the Committee adjourned to the call of the Chair.

TUESDAY, FEBRUARY 23, 1993

(52)

The Standing Committee on Human Rights and the Status of Disabled Persons met *in camera* at 4:10 o'clock p.m. this day, in Room 536, Wellington Bldg., the Chairman, Bruce Halliday, presiding.

*Members of the Committee present:* Louise Feltham, Beryl Gaffney, Bruce Halliday, Jean-Luc Joncas, Allan Koury and Beth Phinney.

*In attendance: From the Research Branch of the Library of Parliament:* Nancy Holmes and William Young, Research Officers.

In accordance with its mandate under Standing Order 108(3)(b), the Committee resumed consideration of the Economic Integration of Disabled Persons. (*See Minutes of Proceedings and Evidence dated Thursday, June 13, 1992, Issue No. 2*).

The Committee resumed consideration of its draft report on Tax Measures for Disabled Persons.

At 5:25 o'clock p.m., the Committee adjourned to the call of the Chair.

TUESDAY, MARCH 9, 1993  
(53)

The Standing Committee on Human Rights and the Status of Disabled Persons met *in camera* at 3:50 o'clock p.m. this day, in Room 705, La Promenade, the Chairman, Bruce Halliday, presiding.

*Members of the Committee present:* Beryl Gaffney, Bruce Halliday, Jean-Luc Joncas and Neil Young.

*Acting Member present:* Stan Darling for Allan Koury.

*In attendance: From the Research Branch of the Library of Parliament:* Nancy Holmes and William Young, Research Officers.

*Witness:* Sherri Torjman, Social Policy Consultant.

In accordance with its mandate under Standing Order 108(3)(b), the Committee resumed consideration of the Economic Integration of Disabled Persons. (*See Minutes of Proceedings and Evidence dated Thursday, June 13, 1992, Issue No. 2.*)

The witness made a statement and answered questions.

The Committee resumed consideration of its draft report on Tax Measures for Disabled Persons.

On motion of Beryl Gaffney, seconded by Neil Young, it was agreed,—That, the Draft Report be adopted as the Committee's Third Report to the House and that the Chairman present it to the House.

On motion of Jean-Luc Joncas, seconded by Neil Young, it was agreed,—That, the Chairman be authorized to make such grammatical and editorial changes to the Report as may be necessary without changing the substance of the Report.

On motion of Beryl Gaffney, seconded by Jean-Luc Joncas, it was agreed,—That, pursuant to Standing Order 109, the Committee request the Government to table a comprehensive response to the Report within 150 days.

At 4:30 o'clock p.m., the Committee adjourned to the call of the Chair.

Lise Laramée  
*Clerk of the Committee*