
Explanatory Notes Relating to the Income Tax Act

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Preface

These explanatory notes described proposed amendments to the *Income Tax Act*. These explanatory notes describe these proposed amendments, clause by clause, for the assistance of Members of Parliament, taxpayers and their professional advisors.

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These notes are intended for information purposes only and should not be construed as an official interpretation of the provisions they describe.

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Amendments to the Income Tax Act

Clause 2

Definitions

ITA
63(3)

Subsection 63(3) contains definitions for the purposes of the child care expense deduction.

The definition “annual child care expense amount” in subsection 63(3) sets out the overall maximum amount that may be deducted for a year in respect of child care expenses for an eligible child. This definition is amended to increase the overall maximum amounts that may be deducted. In the case of a child in respect of whom the disability tax credit may be claimed, the annual child care expense amount is increased from \$10,000 to \$11,000. For children under seven years of age at the end of the relevant year, the annual child care expense amount is increased from \$7,000 to \$8,000. For children aged 7 to 16 (or if they are infirm) at the end of the relevant year, the annual child care expense amount is increased from \$4,000 to \$5,000.

This amendment applies to the 2015 and subsequent taxation years.

Clause 3

Child amount

ITA
118(1)

Paragraph *(b.1)* of the description of B in subsection 118(1) provides the child tax credit and the family caregiver amount for a child. Paragraph *(b.1)* is amended to repeal the child tax credit.

An individual may continue to be eligible for the family caregiver amount for a child. This provides an individual with a tax credit of \$2,000 (indexed to inflation) for an eligible child who, by reason of mental or physical infirmity, is likely to be, for a long and continuous period of indefinite duration, dependent on others for significantly more assistance in attending to the child’s personal needs and care, when compared to children of the same age.

This amendment applies to the 2015 and subsequent taxation years.

Clause 4

Ordering of credits

ITA
118.92

Section 118.92 provides that the tax credits allowed in computing an individual’s tax payable for a taxation year are to be applied in a specific order. For the 2014 taxation year, this section is amended to add a reference to new section 119.1, consequential to the introduction of the family

tax cut credit. For the 2015 and subsequent taxation years, this section is amended to remove a reference to section 118.03, consequential to amendments that make the child fitness tax credit refundable.

Clause 5

Family Tax Cut Credit

ITA

119.1

New section 119.1 introduces the family tax cut credit. Under this credit, a couple, with a child under the age of 18, may effectively transfer up to \$50,000 of taxable income from one spouse or common-law partner to the other, up to a maximum benefit of \$2,000.

New section 119.1 applies to the 2014 and subsequent taxation years.

Definitions

ITA

119.1(1)

New subsection 119.1(1) of the Act sets out definitions that apply for the family tax cut credit.

“adjusted base tax payable”

The “adjusted base tax payable”, of an individual for a taxation year, means the amount that would be the individual’s tax payable under Part I of the Act for the year if the individual’s taxable income for the year were equal to the individual’s split-adjusted income (as defined in this subsection) for the year without including any amount deductible under Division E of the Act other than the individual’s adjusted non-refundable tax credits amounts (as defined in this subsection) for the year.

“adjusted non-refundable tax credits amount”

The “adjusted non-refundable tax credits amount”, of an individual for a taxation year, is the non-refundable tax credits amount (as defined in this subsection) that the individual would be able to deduct in computing the individual’s tax payable for the year in addition to any amount that the individual may deduct under the married or common-law credit in computing the individual’s tax payable for the year. For purposes of this definition, the amount available to be deducted under the married or common-law credit is determined as if the reference to \$10,527 were \$0 in the formula set out in subparagraph (a)(ii) of the description of B in subsection 118(1) and as if the description of C.1 in that formula were equal to the difference between the income of the individual’s spouse or common-law partner for the year and \$10,527.

“base tax payable”

The “base tax payable”, of an individual for a taxation year, means the amount that would be the individual’s tax payable for the year as calculated under Part I of the Act if no amount were deductible under Division E of the Act, other than amounts deductible under any of sections 118 to 118.9.

“combined adjusted base tax payable”

The “combined adjusted base tax payable”, of a qualifying individual (as defined in this subsection), is equal to the total of the individual’s adjusted base tax payable (as defined in this subsection) for the year and the individual’s eligible relation’s (as defined in this subsection) adjusted base tax payable for the year.

“combined base tax payable”

The “combined base tax payable”, of a qualifying individual for a taxation year, is equal to the total of the qualifying individual’s base tax payable (as defined in this subsection) for the year and the eligible relation’s (as defined in this subsection) base tax payable for the year.

“eligible relation”

An “eligible relation” of an individual for a taxation year means an individual who meets certain conditions. First, the individual must be resident in Canada at the end of the calendar year in which the taxation year ends (or immediately before their death). Also, the individual must be married to or be in a common-law partnership with a qualifying individual (as defined in this subsection) at any time in the taxation year and not living separate and apart from the qualifying individual because of a breakdown of their relationship at the end of the taxation year and for a period of 90 days or more commencing in the taxation year.

“qualifying individual”

A “qualifying individual” for a taxation year means an individual who:

- is married or in a common-law partnership with an eligible relation (as defined in this subsection) for the year, provided the eligible relation has not deducted an amount under section 119.1 for the year;
- has a child who:
 - is under the age of 18 at the end of the year; and
 - ordinarily resides throughout the year with the individual and the individual’s eligible relation;
- is resident in Canada at the end of the calendar year in which the taxation year ends (or immediately before their death); and
- is not confined to a prison or similar institution for a period of at least 90 days during the year.

“split-adjusted income”

The “split-adjusted income” of an individual for a taxation year is:

- if the individual’s taxable income for the year is greater than the taxable income for the year of the individual’s eligible relation (as defined in this subsection), the amount that is the individual’s taxable income less the individual’s split adjustment (as defined in this subsection) for the year;
- if the individual’s taxable income for the year is less than the taxable income for the year of the individual’s eligible relation, the amount that is the individual’s taxable income plus the individual’s split adjustment for the year; and
- in any other case, equal to the individual’s taxable income for the year.

“split adjustment”

The “split adjustment” of an individual for a taxation year is the amount of taxable income an individual may split, up to a maximum of \$50,000, with the individual’s eligible relation (as defined in this subsection). The split adjustment is the lesser of \$50,000 and one half of the absolute value of the amount determined by subtracting the individual’s eligible relation’s taxable income for the year from the individual’s taxable income for the year.

Family tax cut credit

ITA
119.1(2)

New subsection 119.1(2) provides for the calculation of the family tax cut credit for a taxation year. The tax credit essentially represents the tax savings that could be obtained by a couple if they were entitled to split up to \$50,000 of income, to a maximum of \$2,000. The tax credit is determined by the formula $A - B$, where A is the qualifying individual’s combined base tax payable for the year and B is the qualifying individual’s combined adjusted base tax payable (both defined in subsection 119.1(1)) for the year.

Deduction not available

ITA
119.1(3)

New subsection 119.1(3) provides that an individual is not entitled to the family tax cut credit in a taxation year if the individual or the individual’s eligible relation (as defined in subsection 119.1(1))

- does not file a return of income in respect of the taxation year with the Minister of National Revenue;
- becomes bankrupt in the calendar year in which the taxation year ends; or
- makes an election for the taxation year to split pension income under section 60.03 of the Act.

Taxation year deeming rules

ITA

119.1(4)

New subsection 119.1(4) provides that for the purpose of applying the definition “qualifying individual” in subsection 119.1(1) in determining whether that child ordinarily resides throughout the taxation year with the individual or the individual’s eligible relation, the taxation year does not include:

- in the event of the birth or adoption of a child in the taxation year, the part of the year that is before the child’s birth or adoption;
- in the event an individual marries or becomes a common-law partner at any time in the year, the part of the year that is before that time;
- in the event of the death of a child, an individual or an eligible relation of an individual in the taxation year, the part of the year that is after the death; and
- in the event of an individual or an eligible relation of an individual becoming resident in Canada in the year, any part of the year that the person is a non-resident of Canada.

This new provision ensures that in the year of such an event, an individual otherwise entitled to the credit can claim the credit.

Clause 6

Where individual bankrupt

ITA

128(2)

Subsection 128(2) contains a number of special rules that apply in cases of personal bankruptcy. Clause 128(2)(e)(iii)(A) is amended to add a reference to new section 119.1, consequential to the introduction of the family tax cut credit.

This amendment applies to the 2014 and subsequent taxation years.

Clause 7

Reduction not permitted

ITA

153(1.3)

Subsection 153(1.1) gives the Minister of National Revenue the discretion to reduce the amount of tax required to be deducted or withheld under subsection 153(1) in cases where the Minister is satisfied that the amount required to be deducted or withheld from a payment under that subsection would cause undue hardship to a taxpayer.

Subsection 153(1.3) provides that a joint election made or expected to be made under section 60.03 of the Act is not a basis on which the Minister can exercise discretion under subsection 153(1.1) to reduce the tax deducted or withheld under subsection 153(1). Subsection 153(1.3) is amended to extend this restriction to family tax cut credit deductions under section 119.1.

This amendment applies to the 2014 and subsequent taxation years.