

# VOICE for Hearing Impaired Children Position Paper: Disability Tax Credit, February, 2010.

*VOICE for Hearing Impaired Children (VOICE) is the largest parent support organization in Canada for families of children with hearing loss.*

*VOICE's Consumer Advocacy – A coalition of like-minded consumer and professional organizations has been formed to address our shared concerns. Here follows the VOICE Position Paper on the shortcomings of eligibility criteria for the Federal Disability Tax Credit*

## The Issue

VOICE wishes to bring to public attention the discriminatory nature of the Disability Tax Credit (DTC).

The existing criteria for eligibility for the DTC discriminates against individuals with hearing loss who use cochlear implant or digital hearing aid technology and who have learned to speak.

Many children with hearing loss in Canada are now benefitting from early diagnosis of their hearing loss and have access to technology that enables them to learn to hear and to learn spoken language. This is a tremendous step forward to enabling their full participation in our hearing society. The assistive listening technology, however, does not eliminate their severe and prolonged disability. They are, for all intents and purposes, still deaf. There are many times during the course of their daily living, for example, in water and with the existence of background noise (which represents everyday life) when they cannot benefit from or maximize the use of their assistive listening technology.

The DTC criteria in form T2201 is both confusing and inequitable for families of children with hearing loss. We are informed by the Canada Revenue Agency (CRA) that the DTC is intended to help offset the additional costs of a disability. Families of children with hearing loss have the additional costs associated with acquiring, maintaining and upgrading state of the art hearing technology, including hearing aids, cochlear implants, FM systems, batteries, wires, and cords and the related costs for their children's medical appointments, routine audiological appointments, and auditory-verbal therapy. Many families are bearing the costs for more than one child with hearing loss in their family. Over 40% of children with hearing loss also have another physical or learning challenge. For the reasons outlined herein, VOICE is opposed to the use of a hearing threshold measurement to determine DTC eligibility.

Many families, despite obtaining prior authorization from a qualified

professional have upon filing T2201 had their applications challenged by the CRA. Following an involved appeal process, the decision of the CRA has been reversed. In recent years there appears to have been an increase in imposed eligibility time limitations and follow-up audits. The uncertainty of ongoing DTC eligibility causes undue stress on families. A change in eligibility status has serious implications to a family who want to participate on behalf of their child with hearing loss in the Federal Registered Disability Savings Plan (RDSP) program. Hearing loss in children is a life-long impairment with long-term personal and societal implications affected by increasing costs for technology, future employment opportunities and their overall quality of life.

The following are examples of when a child with hearing loss may not be able to benefit from their hearing aids and/or cochlear implants (assistive listening technology):

- Anytime there is background noise of any kind (street noise, wind blowing, interior fans/computers/air conditioning, equipment humming such as a fridge or overhead projector, chairs moving, people talking, doors closing, radio, TV)
- Large and open spaces with noise and reverberation such as a gymnasium, movie theatre, arena, church, or auditorium
- In distance (typically more than 3 feet)
- Sleeping (must remove assistive listening devices)
- Swimming and water parks (must remove assistive hearing devices)
- Bath (must remove technology)
- Sports (helmets interfere with sound quality)
- Playgrounds (must remove implant equipment to play on indoor or outdoor playground equipment because a build-up of static electricity damages implant equipment)
- Blow-up bouncy party equipment (must remove implant equipment due to static problem)
- Assistive listening devices malfunctioning or batteries dying

The DTC is a non-refundable tax credit that is intended to apply to persons with hearing loss who have a permanent impairment that restricts their ability to perform functions of daily living, even with the use of their hearing aids.

Unfortunately, the DTC's definition to determine eligibility is inappropriate because of ambiguous terminology which leaves it open to misinterpretation. It is the experience of VOICE families that the authorization of the DTC is subject to individual and varied professional interpretations which results in non-standardized eligibility.

The DTC requires that eligible persons must be **markedly restricted**, i.e. "unable to hear so as to understand another person familiar with the patient, in a quiet setting, even with the use of appropriate devices; or takes an inordinate amount of time to hear so as to understand another person familiar with the patient, in a quiet setting, even with the use of appropriate devices."

### Notes

- Devices for hearing include hearing aids, cochlear implants, and other such devices.
- An **inordinate amount of time** means that hearing so as to understand takes **significantly** longer than for an average person who does not have the impairment.

Examples of markedly restricted in hearing (examples are not exhaustive):

- Your patient must rely completely on lip reading or sign language, despite using a hearing aid, in order to understand a spoken conversation, all or substantially all the time.
- In your office, you must raise your voice and repeat words and sentences several times, and it takes a significant amount of time for your patient to understand you, despite the use of a hearing aid."

- Source: *The Disability Tax Credit Certificate, Part B, page 6*

### VOICE'S Position

- Hearing loss is permanent. Granting the Disability Tax Credit (DTC) for a child with hearing loss should assure life-long eligibility to the DTC and to the Federal Registered Disability Savings Plan (RDSP) program.
- The DTC eligibility criteria do not reflect the individual's day to day listening environments and corresponding challenges of daily living. Daily living is not contained within a quiet setting.
- Increasingly children with hearing loss are benefitting from early diagnosis and access to technology and auditory-verbal therapy that enables them to learn spoken language. The effective use of technology should NOT disqualify an individual from claiming the DTC just as the use of a wheelchair would not disqualify a physically impaired individual. Whether a child uses sign language or technology and their ability to understand spoken language should not be relevant.

- The DTC is intended to offset the costs of the disability. The increased cost of technology affects all children with hearing loss. Forty percent of children with hearing loss have another physical or learning challenge. Hearing thresholds should not be the only determinant to eligibility.

### Recommendations

1. As an interim solution, physicians and audiologists completing T2201 should be encouraged to be guided by case law by the Federal Court of Appeal and other relevant courts with respect to the interpretation of the Income Tax Disability Tax Credit. Precedent has been set in Barber vs. the Queen. <http://www.canlii.org/en/ca/tcc/doc/2001/2001canlii863/2001canlii863.htm>. Therefore, professionals should be encouraged to authorize T2201 on behalf of their patient's with hearing loss.
2. Revenue Canada must change the definitions and criteria to reflect the evolution of and use of assistive hearing technology without discrimination for its effective use.
3. New definitions and criteria should be developed through consultation with VOICE for Hearing Impaired Children, The Canadian Hard of Hearing Association and professional associations, including the Canadian Academy of Audiology (CAA) and the Canadian Association of Speech-Language Pathologists and Audiologists (CASLPA).



## CALSPA Award

Executive Director Norah-Lynn McIntyre (right) accepts the Canadian Speech Language Pathology and Audiology Consumer Advocacy Award for 2010 on behalf of VOICE for Hearing Impaired Children