

**TAXES PAYABLE FOR INDIVIDUALS**- Chapter 4

WEEKS 11 &12

& Chapter 11-Tax Credits Revisited (pages 587-595)

Only general knowledge of foreign tax credit- ignore detailed calculation- pages 593-595

-Ignore-Provincial tax- pages 144-146; overpayment of EI& CPP/QPP-page 171;

-Ignore-refundable credits- pages 174-176; **Except do not ignore refundable Child Fitness Credit pages 177-178;**

-Ignore repayment of OAS/EI -pages 179-180

**TAXABLE INCOME-INDIVIDUALS**

Net income for tax purposes, aka, Division B income less Division C deductions will result in **taxable income** , from which **taxes payable** will be determined

**TAXES PAYABLE-BASIC TAX SYSTEM**

Federal tax is levied on **taxable income (TI)**. In 2015, **tax payable** is based on 4 tranches, aka, **tax brackets**:

1. **15% on \$0 - \$44,701**

TI \$44,701 x 15% = 6,705

Less: Basic credit (1,699) → \$11,327 x 15%

**Tax payable 5,006**

Therefore , same as:

**0 % on \$0 to \$11,327 (ie, the basic credit amount)**

**15% on \$11,327 to \$44,701 = net \$33,740 bracket ----> TI \$33,740 x 15% = 5,006 → same tax payable result**  
**Tax payable**

2. **22% on \$44,701 to \$89,401** (ie, tax on the \$44,700 bracket)

3. **26% on \$89,401 to \$138,586** (ie, tax on the \$49,185 bracket)

4. **29% on over \$138,586** (ie, tax on any excess over \$138,586 - no maximum limit)

Effective 2000, full indexation of threshold income levels was restored; thereby eliminating "bracket creep" that unfairly tax inflationary income increases because the brackets were not being increased by inflation rate

**Note: there is also a provincial income tax payable in addition to federal tax –not covered in this course**

Provincial tax is based on federal taxable income adjusted per specific rules that each province may require and is collected by the CRA; except for Quebec that has it's own income tax act and tax system

**FEDERAL TAXES PAYABLE (before reduced by Non Refundable Tax Credits-NRTC's)**

**Progressive tax system** means higher tax rates apply on higher tranches of taxable income (ie, marginal tax brackets). This is the "ability to pay" concept. Progressive means that as you progress to earn more, then each tranche of higher income will be **taxed at higher rates as you can afford to pay more tax.**

Eg: For 2015, on taxable income (TI) of \$138,586, federal taxes payable, **before claiming NTRCs**, is:

	Bracket	Rate	Tax	Proposed for 2016
1	0 to \$ 44,701	44,701 X 15%	= \$ 6,705	0 to 44,700 X 15 %
2	\$ 44,701 to \$ 89,401	44,700 X 22%	= 9,834	<b>44,700 to 89,401 X 20.5%*</b>
3	\$ 89,401 to \$138,586	49,185 X 26%	= <u>12,788</u>	89,401 to 138,586 X 26%
		Tax payable	<b>\$ 29,327</b>	138,586 to 200,000 X 29%
4	\$138.586 to No max.	No max X 29%	No max	<b>200,000 to No max X 33%*</b>

Note: In 2014, of the 25.5 M tax filers, 16.8M reported income less than \$45,000  
\* est. \$3B less tax offset by \$3B more tax

Eg. In 2015, for a taxpayer earning taxable income of \$138,586: tax payable is \$29,327. Therefore his/her:

1. **Marginal Effective Tax Rate (METR) for TI of \$138,586** is----->  $\frac{\$ 29,327}{\$ 138,586} = 21\%$  ; and his/her

2. **Marginal Tax Rate**, ie, for TI which will be over **over \$138,586** is -----> **29%**

**For general knowledge purposes only:** below text on Quebec and Provincial Taxes Payable

Note: In addition to the federal ITA, Quebec residents are subject to the Quebec Income Tax Act (QITA). Therefore, for Quebec residents, the above federal tax rates are reduced by a **16.5% abatement** because these residents will also be filing a separate provincial income tax return pursuant to the QITA.

The QITA is similar but **not identical** to the ITA – eg, more items are taxable; less items are deductible; thus taxable income as per the QITA is normally different (ie higher) than the federal ITA. Tax rates and brackets are also different which produce higher tax payable than for federal tax purposes.

**Quebec residents pay federal tax rates reduced by 16.5% abatement AND Quebec rates, as per the following:**

**2015 Federal Rates Reduced by 16.5% Abatement- Quebec resident + 2015 Quebec Rates**

Quebec residents: <u>The federal rates are actually:</u>	<u>The Quebec rates are:</u>
1. <b>12.5%</b> on 0 to \$44,701	1. <b>16%</b> on 0 to \$41,935 ->26.5%
2. <b>18.4%</b> on \$44,701 to \$89,401	2. <b>20%</b> on \$41,935 to \$83,865 ->38.4%
3. <b>21.7%</b> on \$89,401 to \$138,586	3. <b>24%</b> on \$83,865 to \$102,040 ->45.7%
4. <b>24.2%</b> on over \$138,586	*4. <b>25.75%</b> on over \$102,040 ->49.95%

\*In 2013, Quebec introduced a new tax bracket rate of 25.75%. For 2015, the rate is effective after Quebec TI of \$102,040, making the **top combined Federal/Quebec marginal tax bracket for a Quebec resident --> 49.95%**.

Note: **Quebec tax payable is greater than the federal tax payable for the same taxpayer** because the Quebec tax system is more “progressive” in its design, such as higher tax rates for its brackets and the income threshold amounts in the brackets resulting in more tax burden to lower tax brackets.

For example, in 2015, the **top Quebec rate applies after reaching a bracket threshold of \$102,040 compared to \$138,586 for federal tax**. Also, the 1<sup>st</sup> Quebec bracket is based on a higher percentage of 16% and starts sooner at lower amount of \$41,935. For federal tax, the 1<sup>st</sup> bracket is 12.5% and starts at \$44,701. Furthermore, as the Quebec ITA does not allow deductions permitted by the federal ITA and considers certain benefits taxable unlike the federal ITA, Quebec taxable income is generally higher than the federal taxable income

## **PROVINCIAL TAXES PAYABLE –Other than Quebec**

Provincial taxes are no longer calculated as a percentage of the Basic Federal Taxes Payable, but rather on a Tax on Income (TONI) system. Basically: federal taxable income is adjusted to reflect the applicable province’s tax policy that differs from federal policy. **The CRA still collects the provincial tax based on a revised taxable income and applicable provincial tax rate as demanded by the provinces.**

### Provincial Residency

- **An individual’s income is deemed to have been earned in the province in which he resides and where his center of vital interest are located as at December 31. (Similar to rules regarding severing ties that establish Canadian residency)**

It is possible to be a **resident for Canadian tax purposes** (eg federal tax), and not be physically present in Canada (eg deemed residents) and therefore not have a provincial residence as at December 31.

For example, deemed residents that work for the federal government outside of Canada. This lack of a provincial residence at year-end precludes having to pay a provincial income tax

However, ITA 120(1) will levy an **additional federal tax based on 48% of basic federal tax for all deemed residents who do not physically reside in Canada and have no attributable province.**

## TAX CREDIT SYSTEM

- **“Tax credits” reduce taxes otherwise payable** and is akin to a deduction that reduces taxable income, **except that unlike a deduction** that will reduce taxes depending on the applicable marginal rate, the tax reduction is based on a **“prescribed amount”**.
- All of the **2015** prescribed amounts that result in tax credits have been increased from the previous year as the result of **full indexation provisions** (ie, increased for inflation) introduced in 2000.
- Tax credit is **normally based** on a prescribed amount multiplied by **the lowest tax bracket rate-15%**

For **2015**, the basic personal **tax credit is \$1,699**, which is based on a **prescribed amount of \$ 11,327** times the **15% lowest bracket rate**. **Effectively this credit exempts first \$11,327 of taxable income.**

- ITA 118.91 requires that **for part-time residents, there is a pro rata calculation** for personal tax credits, disability credit, and tax credits transferred from a spouse or dependent.
- Due to the new TONI system of calculating provincial income taxes, provinces have to explicitly declare what are **the provincial tax credits allowed as a reduction of provincial taxes payable**.

### Tax credits versus tax deductions

- a) **A tax credit** is based on a rate (normally the lowest tax bracket rate – 15%) multiplied against an amount that otherwise could have been a tax-free amount, had it been deducted from taxable income. A tax credit is similar to cash that is used to pay for a tax liability. A prescribed **tax credit has the same value for every taxpayer**, ie, it is the same cash value for all taxpayers
- b) **A tax deduction**, effectively also results in a reduction of taxes payable, however the actual value of this tax reduction, unlike a fixed prescribed credit, **is based on the actual marginal tax rate of the taxpayer**, ie, a deduction does not have the same cash value for all taxpayers.

Eg i) **Basic personal exemption for 2015 is \$11,327**

-For taxpayers with TI over \$138,586-a \$11,327 deduction @ 29% would mean \$3,285 tax saved  
-Prescribed basic credit assumes all taxpayers @15% bracket (\$11,327 x 15%) 1,699 basic credit  
**More tax payable** due to personal amount being a credit rather than deduction \$1,586

Eg ii) **RRSP contribution deduction of \$20,000**

-Tax savings as a deduction	@ 29% bracket	\$5,800 tax saved
-However, if it turned into a prescribed tax credit	@ 15% bracket	<u>3,000</u> tax saved
<b>Tax saved</b> due to being a deduction rather than the basic credit		<u>\$ 2,800</u>

Effectively, **tax applies on a person’s unencumbered disposal income**, after considering 2 important facts:

1. **Monies spent** to earn income or for contributions to authorized savings plans, **that are deducted** to arrive at taxable income (ie, the disbursed monies are not available funds that could be used to pay tax); and
2. **Tax credits to reflect the taxpayer’s personal situation** in respect to other costs incurred such as basic living expenses, costs to care for family members, medical expenses, donation, tuition, cost related to old age, etc. (ie, again, these incurred costs represent funds not available on which to pay tax)

**After considering these 2 factors; remaining amount is unencumbered on which taxes should be based**

## **NON-REFUNDABLE TAX CREDITS- (NRTC's)-ITA 118 (1)**

(Below references to net income means "net income for tax purposes-ie, Division B" not taxable income)

**Note:** In 2015, the Child Tax Credit for children under 18 is eliminated (In 2014, was based on 15% of \$2,255 or \$338)  
This has caused more complexity to calculating the Family Caregiver Amount –FCA

### **Family Caregiver Amount –FCA**

FCA is only available if a dependent being claimed has a physical or mental infirmity. In 2015, the FCA is \$2,093

If the dependent who qualifies for one of the below 3 credits, also has a physical or mental infirmity, then the FCA of \$2,093 will also apply in addition to the normal amount for:

1-a Spouse or a Common Law Partner credit-TBD

2-an Eligible Dependent credit- TBD

3-a Caregiver credit-TBD (**do not confused the Family Caregiver Amount itself**)

**Note:** A dependent who is over 17 AND who has an infirmity qualifies for the Infirm Dependent over 17 credit (not listed above). The \$2,093 FCA is already imbedded in this credit. This is logical because by the definition of this credit, it cannot be claimed unless the dependent is infirm.

In 2015, the Infirm Dependent over 17 credit amount is \$6,700 (inclusive of the \$2,093 FCA)-TBD

In 2015, FCA is also available, on a stand alone basis for a dependent child under the age of 18, with a physical or mental infirmity and as a result of that infirmity is, and is likely to be for a long continued period of indefinite duration, dependent on others for significant more assistance in attending to the child's personal needs and care when compared to children of the same age.

**Note:** The above definition of an infirmity for a child under 18, does not require a disability so severe that the child would qualify for the Disability Tax credit.

The definition of a disability that is eligible for a disability tax credit; essentially involves a **severe and prolonged impairment that restricts basic living activities for a continuous period of at least 12 months** (eg, blindness, bed ridden, etc.) and supported by Form T2201 signed by a physician.

**Note:** The stand alone FCA for an infirm child under 18, is not affected by the child's net income  
The stand alone FCA can be claimed by either parent

#### **Summary regarding a dependent child:**

- A dependent child over 17, who is infirm, qualifies for the Infirm Dependent over 17 credit amount
- A dependent child under 18, who is infirm, qualifies for a stand-alone FCA
- A dependent child under 18 who is infirm, and if claimed as an Eligible Dependent, is also allowed the FCA, but in this case, no stand alone FCA will be allowed (ie, no doubling of the FCA)
- A dependent child under 18, who is in good health, no longer qualifies for any stand alone credit
- A dependent child under 18, who is in good health, continues not to qualify for any credit

#### **NOTES:**

-The FCA claim, as per the ITA, does not seem to require the dependent to be eligible for the Disability Tax Credit, but the CRA requires a medical doctor certification could be requested to certify the infirmity

- A dependent documented as being eligible for the Disability Tax credit, is also infirm in respect to the FCA
- The FCA can be claimed for each dependent that qualifies for the FCA

## **Basic Personal Tax Credits - ITA 118(1)**

**For 2015**, the basic personal amount (ie, a basic tax-free amount) is **\$11,327** and is eligible for a 15% non-refundable tax credit of \$1,699, under the following 3 situations:

- a) **Individuals who are single**
- b) **Individuals with a Spouse or a common-law partner –CLP;**
- c) **Individuals supporting an eligible dependent (aka, an **Equivalent to Spouse**); and**

a) **Individuals who are Single -ITA 118(1)(c)** → (even if infirm, the FCA is not applicable)

- **For 2015**, ITA 118(1)(c) allows every individual, regardless of net income or marital or family status, a tax credit based on 15% of a basic personal amount of \$11,327 (or a credit of \$1,699).

b) **Individuals with a Spouse or a Common-Law Partner (CLP) -ITA 118(1)(a)**

**Note:** Although the term “spouse” applies solely to legally married persons and “CLP” applies to persons who co-habit in a conjugal relationship (see below eligibility definition), for the ITA both status generally have the same tax treatment and both terms are used interchangeably and indiscriminately

- ITA 118(1)(a) – provides the possibility of 2 basic credits for an individual with a spouse or CLP
  - i) The basic personal tax credit (in 2015 based on \$11,327 i.e., \$1,699 credit) regardless of his/her net income; plus, if supporting a spouse /CLP
  - ii) An income tested credit for that spouse / CLP (for 2015- \$1,699 if spouse/CLP has nil income)

**For 2015**, the spousal credit is 15% of \$11,327 (ie \$1,699 credit), reduced by 15% of any net income earned by spouse/CLP (for the entire year, including when the taxpayer was not a spouse/CLP)

If the spouse/CLP net income for the year is greater than \$11,327, then the spousal credit is lost

Eg, If spouse’s net income is nil: Spousal credit->\$11,327 less nil = \$11,327 x 15% = \$1,699 credit

If spouse’s net income is \$5,000: Spousal credit-> \$11,327 less \$5,000=6,327 x 15%=\$949 credit

If spouse’s net income is \$14,000: Spousal credit-> \$11,327 less \$14,000= nil x 15%= Nil credit

### **Family Caregiver Amount impact:**

If the spouse or CLP is dependent on the taxpayer because of a physical or mental infirmity, then an additional amount regarding the FCA of \$2,093 will be added to the computation of the spousal credit:

Eg

If spouse’s net income is nil: Spousal credit->(\$11,327+\$2,093) less nil = \$13,420 x 15% = \$2,013

If spouse’s net income is \$5,000: Spousal credit-> (\$11,327+\$2,093) less \$5,000=8,420 x 15%=\$1,263

If spouse’s net income is \$14,000: Spousal credit-> (\$11,327+\$2,093) less \$14,000= nil x 15%= Nil

**Note: Pension income splitting with spouse would increase net income and could decrease the Spousal Credit**

▪ **Eligibility for the spousal /CLP credit:**

-Up to 1992, was restricted to legally married individuals of the opposite sex.

-From 1993 to 2000, eligibility was extended to relationships known as common law partnerships-CLP between opposite sexes.

-For 2001, and subsequent years, as per ITA 248, a CLP is also a person, **regardless of sexual orientation**, who **does not already have a spouse**, and who **co-habits with the taxpayer in a conjugal relationship for a continuous 12-month period**, or is the parent of a child of whom the taxpayer is also a parent.

- ITA 118(4)(a) deems that when there are multiple spouses or CLP, a credit for only one spouse or CLP based credit is available

NOTE: If the spousal credit has been reduced or eliminated **due to taxable Canadian corporation dividend income** received by the spouse, then ITA 82(3) permits an **election to transfer all the dividends received to a spouse or CLP** so that a spousal credit is created or increased, eg, the spouse will have no net income and thus create a full spousal credit. See below “Other Credits”

c) **Individuals supporting an Eligible Dependent** (aka, *Equivalent to Spouse*)-ITA 118(1)(b)

**For 2015**, the eligible dependent credit is 15% of \$11,327 (ie **\$1,699 credit**), reduced by **any net income earned by the Eligible Dependent**— **similar to the rules for the spousal/CLP credit**

Eg, Eligible Dependent credit= [(15% x \$11,327 less eligible dependent net income eg if Nil)= \$11,327] = **\$1,699**

**Conditions for Eligible Dependent credit to Apply:**

- ITA 118(1)(b) allows a tax credit, (similar to individuals with a spouse or a CLP), is available to an individual who **supports an eligible dependent in a self contained domestic establishment**.
- **The taxpayer claiming the Eligible Dependent credit, at any time during the year:**
  - Must not be married (ie, have no legal spouse); or
  - Must not be living in a common-law partnership (CLP) relationship;
  - If the taxpayer is married or has CLP, the taxpayer **must neither support or live with that spouse /CLP** (Eg if a taxpayer has been living apart but never bothered to legally file for a divorce agreement)

**An eligible dependent is** a person who **at any time in the year** is 1) **related to the taxpayer**; and 2) **“wholly dependent”** on the taxpayer individual who is making the claim.

1- ITA 251(2) defines **related individuals** as those who are related by **blood, marriage, CLP, or adoption**

Note- IT-419R2 includes parents, grandparents, children, sisters, brothers **but for the purposes of the Eligible Dependent credit, excludes aunts, uncles, nieces, nephews, cousins**

-Death of a spouse/CLP severs all marriage/CLP relationships (eg death of a spouse, no longer makes the spouse’s bother (ie, a bother-in-law) a related person under the ITA)

2-To be **“wholly dependent”** means that the individual making the claim, provides all the means of support (eg, food, shelter) as well as financial support.

Normally the **Eligible Dependent credit** is claimed by a single, widowed, divorced or separated taxpayer, who **throughout the entire year**, support an **eligible dependent**, specifically defined as **someone who**:

- is the taxpayer's parent or grandparent **by blood, marriage, common law partnership or adoption**;  
**OR**
- is the taxpayer's child, grandchild, sister or brother **by blood, marriage, common law partnership or adoption**, **AND** who is under 18 years of age;  
**OR**
- if the child, grandchild, sister or brother is over 18 years of age, they must have an impairment in physical or mental functions

**Other conditions for the Eligible Dependent credit:**

- The eligible dependent must be **residing in Canada** and living with the taxpayer in a home maintained by the taxpayer claiming the Eligible Dependent credit.

**Note:** **This condition does not apply if the eligible dependent is the taxpayer's minor child** (eg, a taxpayer's child can move away outside Canada to attend school and still be eligible for the Eligible Dependent credit, as long as home in Canada remains the child's home & they normally live together).

**Summary:** for a child to be an eligible dependent, the child must be:

- 1-under 18 (in good or poor health\*), or
- 2-if over 17, the child must be **mentally or physically infirm\***

and in both cases, the child must normally reside in a home provided by the taxpayer, albeit that the child can temporarily reside elsewhere (eg to attend school)

- \* - **if under 18 and in poor health, the FCA will also apply**
- \*\* - **if over 17 and infirm, the FCA will also apply** (Infirm Dependent over 17 credit will not apply-TDB)

**NOTE:** **a child over 18 in good health, does not qualify as an eligible dependent (or any other credit)**

**A taxpayer cannot claim the Eligible Dependent credit, if any of the following applies:**

- If the taxpayer or someone else is claiming a spousal or CLP credit for the same dependent
- If the taxpayer is living with, supporting or being supported by a spouse, anytime during the year
- For more than one person (just like the spousal credit not allowed more than one spouse)
- For someone that you have also claimed an amount for Infirm Dependent over 17
- If the dependent's **net income in 2015 exceeds \$11,327 or \$ 13,420 if FCA applies**
- If someone else is making this claim for the same dependent individual
- For the individual's child, **if** the individual is making a child support payment, **regardless of whether it was deducted**, to another individual, **for the same child**.

Eg, if Mr. A makes a child support payment to ex-Mrs. A for their child, then Mr. A can not claim the child as an Eligible Dependent

**Note:** **In this case, the child under 18 is not entitled to the stand-alone FCA.**

**More specifically,**

**ITA 118 (1) (b)** does not allow the FCA in addition to amount for the eligible dependent when the eligible dependent is a child under 18, in order to avoid double application of the FCA for the same dependent.

**If the FCA applies** in addition to the eligible dependent credit, the actual Eligible Dependent credit calculation takes into consideration the net income of the dependent, similar to the spousal/CLP credit.

### Family Caregiver Amount impact:

If the Eligible Dependent is also dependent on the taxpayer **because of a physical or mental infirmity**, then the FCA of \$2,093 will be added to the computation of the Eligible Dependent credit

Eg

If Eligible Dependents' net income is nil: credit->(\$11,327+\$2,093) less nil = \$13,420 x 15% = **\$2,013**

If Eligible Dependents' net income is \$5,000: credit-> (\$11,327+\$2,093) less \$5,000=\$8,420 x 15% = **\$1,263**

If Eligible Dependents' net income is \$14,000: credit-> (\$11,327+\$2,093) less \$14,000= nil x 15% = **Nil**

### Child Tax Credit-under 18-ITA 118(1)(b.1)

**NOTE:** Child Tax Credit for children under 18 was eliminated in 2015 and replaced by a stand-alone FCA if the child under 18 is infirm

-A Child over 17 and infirm still qualifies for the Infirm Dependent over 17 credit.

**Normally, only one personal credit can be claimed for the same dependent**, ie, more than one personal credit can not be claimed for the same individual, **except, in the case when a FCA applies**

**Example:** If a child is under 18, and is also infirm, then **2 credits could be claimed for that same child**, ie, the Eligible Dependent credit and the FCA

Eg. In 2015, a single parent, supporting in a self contained domestic establishment, a child under 18, who is **also physically or mentally infirm**, can claim→ Eligible Dependent-

→ Eligible Dependent-	\$ 11,327*
→ Family Caregiver Amount-	2,093
Total amount	\$ 13,420

Tax credit - \$13,420 x 15% = **\$2,013 credit**

\* assuming the child has Nil net income

**NOTE:** In certain cases, there is no credit available for a supported child **who is not infirm**

Eg, a married couple that supports a child, **under or over 18 years old**, who is in good health and even if the child has nil income, there are no credits available, in respect to this child.

-No Eligible Dependent credit (because there is a spouse)

-No Infirm Dependent over 17 credit (because child is not infirm)

-No stand-alone FCA (because child is not infirm)

### Caregiver Tax Credit-ITA 118(1)(c.1) → (Do not confuse with the FCA)

- ITA 118(1)(c.1) provides for a caregiver tax credit to a taxpayer **who provides home care to a related adult (ie, the dependent must be 18 years or older)** and **who maintains a dwelling, ordinarily resided, by the taxpayer and the relative for whom a caregiver credit is claimed**

Related person--> child, grandchild, parent, grandparent, brother, sister, and for the **purposes of the Caregiver credit, includes aunt, uncle, nephew, or niece**

- For 2015**, this credit is **15% of \$4,608 (ie, \$691 credit)** and is **reduced by 15% of the dependent's net income in excess of \$15,735**

Eg. Caregiver credit= [15% x (\$4,608- **no reduction if dependent net income is under \$15,735**)] = **\$691**

**NOTE:** -Credit is lost at net income **\$20,343 (ie, income threshold \$15,735 + credit basis of \$4,608 = \$20,343)**

### **Family Caregiver Amount impact:**

If the individual is also dependent on the taxpayer **because of a physical or mental infirmity**, then the FCA of \$2,093 will be added to the computation of the caregiver credit

Eg. Caregiver credit (\$4,608 + \$2,093=\$6,701) X 15% = **\$1,005**-> **assumes no reduction for over NI \$15,735+**

### Summary- in 2015

1-**Without the \$2,093 FCA**, a partial caregiver credit is available if the dependent earns net income between \$15,735 to \$20,343 AND **is lost completely if net income is over \$20,343.**

2-With the \$2,093 FCA, a partial eligible dependent credit is available if the dependent earns net income between \$15,735 to \$22,436 AND **is lost completely if net income over \$22,436.**

### **Conditions for the Caregiver Credit**

1.**Except for a child or grandchild (who must be over 17)**, the dependent **must be a resident of Canada** (ie, **child/grandchild over 17, do not have to be Canadian residents**)

Note: a child/grandchild who **is over 17 and infirmed, and regardless of whether or not living with the taxpayer, could also qualify for the Infirm credit over 17 → TBD**

2. **Except for parent or grandparent (who must be over 64)**, the dependent must be dependent on the taxpayer (or taxpayer's spouse/CLP) **due to a mental or physical infirmity**

Note: -A parent/grandparent **does not have to be infirm to be considered as a dependent** for the purposes of claiming the Caregiver Credit; **they just must be over 64.**

-However, if they are also classified as infirm, then the additional \$2,093 FCA will apply.

3. A caregiver credit can be claimed for every individual that qualifies

4. Caregiver tax credit can **not be claimed** for a dependent that someone else has also claimed as an **individual with a spouse or Infirm Dependent over 17 tax credit .**

Caregiver credit is typically for individuals that **support in their homes**, parents/grandparents over 64 **(no need to be infirm)** or other relatives (per conditions) and are **under the prescribed income threshold**

**SUMMARY:** A key condition is that the dependent **must live with the taxpayer** making the claim

### **Infirm Dependent over 17 Credit**→(must be over 17 AND must have an infirmity)-ITA 118(1)(d)

- ITA 118 (1)(d) specifies a credit for dependents who:
  - i)-reach 18 before the end of the year (ie, over 17; ie, 18 or over); and
  - ii)-the individual is a dependent by reason of mental or physical infirmity (ie, **mild infirmity not requiring doctor's certification**) (Form T2201) that is needed only for Disability Tax credit-TDB

- ITA 118(6) defines dependent as a person who at any time during the year, was dependent on the individual for support and **includes**:
  - i)- a child, grandchild **over 17** of the taxpayer individual (or of his/her spouse/CLP); and,
  - ii)- **if a resident of Canada**, a parent/grandparent, brother, sister, **uncle, aunt, niece or nephew**.

**For 2015**, this credit for infirm dependents over 17 is based on **15% of \$6,700** (ie, automatically includes the FCA of \$2,093). The credit is **\$1,005**, and **reduced by 15% of dependent's net income in excess of \$6,720**.

For 2015, the credit is **lost at net income \$13,420** → (NI allowed of \$6,720 + credit amount of \$6,700 = \$13,420)

**Family Caregiver Amount impact:**

**Note:** The FCA is already imbedded in the **Infirm Dependent over 17 amount**, because by definition, this credit cannot be claimed unless the dependent was physically or mentally infirm

**DOUBLE CREDIT CLAIM ISSUES**

Generally, the ITA does allow for some multiple credits for the same dependent, but it **does not allow multiple credits for the same dependent** in respect to the following 3 personal credits:

- 1 -Eligible Dependent credit
- 2 -Caregiver credit
- 3 -Infirm Dependent over 17 credit

However, there are cases where all 3 of the above personal credits could apply to a particular dependent and a decision needs to be made as to which credit produces the most favorable results/

eg, a **single taxpayer** who **supports in his home, a related person who is over 17**, and who **is invalid**, then that dependent could qualify for any one of the above 3 personal credits, **but only one can be claimed**.

**Note:** the dependent's net income will determine the actual amount of credit that can be claimed, if any

**Note:** there are no double claim issues in respect to other non-personal credits for the same dependent

eg, For dependents for whom you have claimed one of the above 3 credits (or other personal credits, such as the spousal, child or FCA credit), **you can still claim other credits** (if applicable), **for that same dependent**, such as for medical expenses, transferred credits eg, tuition, donations, age, etc. → TBD

The issue is, when a dependent qualifies for any one of the above 3 credits, which one will apply? It may not be a matter of choice for the taxpayer, but rather, a choice will be dictated by the ITA.

Specifically, ITA 118(1)(d) specifies that a credit for an **Infirm Dependent over 17** **can not be claimed if:**

- the **Eligible Dependent credit** or **Caregiver credit** can also be claimed for the same dependent; or
- if a **deductible child support payment** is being made for the same dependent.

## **Interaction Between Eligible Dependent vs Caregiver; or vs Infirm Dependent over 17**

**This occurs when a dependent may qualify for more than one credit, but only one credit is allowed**

Eg. A single taxpayer is supporting, in his home, a related individual who is over 17, invalid (or certified disabled) and has nil net income. In this case, the dependent qualifies for:

- the **Eligible Dependent credit**;
- the **Caregiver credit**; or
- the **Infirm Dependent over 17 credit**

**But only one credit can be claimed.**

**In such a case:**

ITA 118 (4)(c) **prohibits claiming the Caregiver credit or the Infirm dependent over 17**, if the taxpayer is also **entitled to claim** the Eligible Dependent credit per ITA 118 (1)(b), **AND either:**

- i) the Caregiver credit; or
- ii) the Infirm Dependent over 17 credit.

Essentially, if circumstances allow claiming: 1. the Eligible Dependent or the Caregiver credit;  
or  
2. the Eligible Dependent or Infirm Dependent over 17

Then, **ITA 118(4)(c) forces the taxpayer to claim just the Eligible Dependent**, not the Caregiver and not the Infirm Dependent over 17 credit. This rule is intended to prohibit double personal credits.

**However**, while the intent **to avoid claiming a double credit** is understandable, and while this rule is a good for the taxpayer because **the Eligible Dependent credit amount is greater than the Caregiver or Infirm dependent credit**, there **could be unfairness due to the different income threshold reductions**.

This unfairness could occur because **all net income earned by the dependent will** reduce the Eligible Dependent credit versus **only some net income** can reduce the credit for the Caregiver or Infirm Dependent over 17 credits.

It is possible that, a *caregiver credit based on \$4,608 for 2015 (ie, without a FCA), or an infirm dependent over 17 credit of \$6,700 for 2015, could be greater than a forced eligible dependent credit as per ITA 118(4)(c)*. **→ because of the different net income restrictions that apply to these 3 credits**

*Eg#1.* A single taxpayer living with an 83 year-old father **in good health** who earns **net income** of \$11,327

<b>ITA 118(4)(c) rule forces–</b>	<b>Eligible Dependent</b>	<b>11,327</b>	<b>If Caregiver was allowed</b>	<b>\$4,608</b>
	<b>Net income reduction</b>	<b>(11,327)</b>	<b>Net income reduction</b>	<b>Nil *</b>
	<b>Amount eligible for credit</b>	<b>Nil</b>	<b>Amount eligible for credit</b>	<b>\$4,608</b>

**\* because net income is under the \$15,735 threshold**

Note: The ITA 118(4)(c) rule caused **an unfair denial of a credit based on \$4,608**

The same unfair denial would occur if the Infirm Dependent over 17 could also apply. As the net income threshold is \$ 13,420, there would be no reduction of the credit based on \$6,700

Consequently, **ITA 118 (1)(e) addresses this possible hardship scenario and provides relief** by allowing an additional credit on the excess of the Caregiver or Infirm Dependent over 17 credit **that could have been claimed, had ITA 118(4)(c) not existed** that forced the claiming of the Eligible Dependent credit

If only the Caregiver credit could also apply (ie, because the dependent is in good health), there are 2 steps to the **ITA 118 (1)(e) relief**, as follows:

1<sup>st</sup> -Forced Eligible Dependent credit is calculated (with no FCA); and if credit is less than \$691 -for 2015 then;

2<sup>nd</sup> -An additional credit can be claimed to reach \$691 for 2015.

Effectively, the total for both the Eligible Dependent credit and the Caregiver credit (or the Eligible Dependent credit) can total up to the maximum credit allowed for the year regarding the Caregiver credit (or the Eligible Dependent credit).

Eg. A single taxpayer living with an 83 year-old father in good health who earns net income of \$7,675 **(or alternative example of net income of \$11,327)**

1<sup>st</sup> **ITA 118(4)(c) forces the taxpayer to claim the Eligible Dependent**, not the Caregiver credit

Eligible Dependent credit-  $15\% \times (11,327 - \text{NI } 7,675 = 3,652) = 548$  or **(11,327-NI 11,327) = Nil**

2<sup>nd</sup> **ITA 118(1)(e) relief**- Caregiver less Eligible dependent  $(691 - 548) = 143$  or **(691-NI nil) = 691**  
Total credit claimed for the year 691 691

**Summary: Same total credit as if the Caregiver credit was allowed in the first place**

## **Interaction Between Caregiver Credit versus the Infirm Dependent over 17 Credit**

It is possible that an individual can qualify for the **Eligible dependent** and both the **Caregiver or the Infirm dependent over 17 credit**. For example, a 64+ grandparent need not be infirm to qualify for the Caregiver credit, only that he resides with the taxpayer making the claim.

Eg 1. A **single taxpayer** supports a parent who is both **infirm**, and **living with the taxpayer**

In this case, **ITA 118(4)(c) forces the taxpayer to claim the Eligible Dependent**, but because the relief can be based on either the Caregiver credit or the Infirm dependent credit, the ITA states that ITA 118(4)(d) will apply, but **ITA 118(1)(e) relief**. Is available if required.

Eg 2. A **married taxpayer** supports a parent who is both **infirm**, and **living with the taxpayer**

The taxpayer could claim either the Caregiver credit or the Infirm Dependent over 17 credit. However, even though for 2015 both of these credits are worth the same amount:

-Caregiver amount \$4,608 plus the \$2,093 FCA = \$6,701 or a credit of \$1,005

-Infirm Dependent over 17 amount is already \$6,700 or a credit of \$1,005

because the net **income thresholds** for **Caregiver is \$15,735** versus **\$6,720 for Infirm Dependent**, a different tax credit could result depending on which credit has to be claimed.

**ITA 118(4)(d)** states that if a taxpayer is entitled to both the **Caregiver credit** or the **Infirm Dependent** for an individual, then that individual is deemed not to be dependent and therefore, not eligible for the infirm dependent over 17 credit, **ie, only the caregiver credit can be claimed** (and used for credit relief purposes)

**Summary:**

Because the income threshold is higher for the Caregiver credit, than for the Infirm Dependent over 17 credit, **this ITA 118(4)(d) rule is favorable to the taxpayer**, as it can result in credits not being lost if the dependent has net income higher than \$6,720 in 2015

**SOME DIFFERENCES BETWEEN CAREGIVER AND INFIRM DEPENDENT OVER 17 CREDIT**

-Caregiver credit- parents & grandparents allowed **as long as over 64** and do not need to be infirm;

-Infirm Dependent over 17 credit- dependent must always be **over 17 and infirm**

-Caregiver credit- parents & grandparents **must live with taxpayer**;

-Infirm Dependent over 17 credit- dependent does **not have to live with the taxpayer**

-Caregiver credit- net income threshold before credit starts be **lost after \$15,735- with FCA after \$17,828**;

-Infirm Dependent over 17 credit- starts to be **lost after \$6,720**

**SUMMARY- 2015**

<u>If dependent Qualifies for:</u>	<u>Credit Amount</u>	<u>Net income Threshold</u>	<u>Conditions for the taxpayer-T/P and eligible dependents-ED</u>
1. Eligible dependent (ED) <b>With 2,093 FCA</b>	11,327 13,420	0-11,327 0-13,420	-T/P claiming this credit <b>must be single throughout the year</b> -If ED is a child or grandchild->they must be <b>under 18</b> -If ED is a child or grandchild is over 17-> they must be invalid <b>Note: a child/grandchild over 17, that is not invalid-&gt; no credit available</b> -If ED is a grandchild->they must be a Cdn resident -If ED is a P/GP; S/B; -> must be a Cdn resident- <b>Note: no A/U; N/N</b> <b>-All of the above dependents must always live with the T/P</b>
2. Caregiver <b>With 2,093 FCA</b>	4,608 6,701	15,735 -20,343 15,735 -22,436	- <b>Dependent must always ordinarily live with the T/P</b> , and -If dependent is a child or a grandchild- ->Must <b>over 17</b> ->If <b>under 18</b> , must be infirm (not disabled) ->Does not have to be Cdn residents -If dependent is parent or a grandparent ->Must be <b>over 64</b> ->Must be Cdn residents ->Does not have to be infirm -If dependent is a sister/brother; aunt/uncle; niece/nephew -> Must be infirm -> Must be Cdn residents
3. Infirm <b>and over 17</b>	6,700*	6,720-13,420	- <b>Dependent must always be infirm and always be over 17 or disabled</b> <b>-Does not have to live with the T/P</b> -If dependent is a child or a grandchild ->Must be <b>over 17</b> ->Does not have to live with the T/P ->Does not have to be Cdn residents -If dependent is a P/GP; S/B; A/U; N/N ->Does not have to live with the T/P ->Must be Cdn residents

**\*Note: Already includes the 2,093 FCA**

Note: A dependent, based on their situation, could qualify for more than one of the above 3 credits.

Eg, a single taxpayer who supports in his home, multiple related individuals, of different ages, who may also be infirm, can claim the Eligible Dependent, the Caregiver and the Infirm and over 17.

Tax planning involves choosing a specific dependent for a specific credit that will result in the max credit, but also taking into consideration any specific ITA restrictions.

### **Tax Planning example:**

If a single taxpayer has 2 children under 18, one child earns net income and the other does not; then -elect the child without income for the Eligible Dependent, as there will be no reduction to the credit; -do not elect the other child with net income because every dollar will reduce the basis for the credit.

### **Age Tax Credit- ITA 118(2)**

**ITA 118 (2)** provides a tax credit for individuals who **reach 65 prior to year end** (ie, reaches 65 in the year).

**For 2015**, this credit is 15% on **\$7,033** ie **\$1,055 credit**.

Credit is **reduced by 15% of the individual's net income in excess of \$35,466**

The credit is **lost at net income of \$82,353 or over**

**Note:** **Pension income splitting with a spouse** that increases the spouse's net income over the net income thresholds, will result in a reduction or the loss of the Age Tax Credit for the spouse

**NOTE:** Any age credit amount not needed to arrive at Nil tax payable, **can be transferred to a spouse.**

### **Pension Income Tax Credit –ITA 118 (3)**

ITA 118(3)- **For 2015**, a tax credit of **15% of first \$2,000** (not indexed) or **\$300** of "eligible pension" income.

- ITA 118(8) **excludes** as "eligible pension" the OAS, CPP or QPP, salary deferral arrangements, retirement compensation arrangements, employee benefit plans or death benefits.
- ITA 118(7) defines, for individuals who **have reached 65 before the year end**, "pension income" as being the following:
  - **Life annuity payments** out of or under a registered pension plan (ie, an employer's RPP);
  - Annuity payments under an RRSP;
  - Payments out of a RRIF;
  - Annuity payments from a DPSP; and the
  - Interest component of other annuities (eg annuities bought from tax-paid non-registered amounts)
- For individuals who have **not reached 65**, the tax credit is only available to the extent of **"qualified pension income"** made up of:
  - **Life annuity payments** (eg from an employer's RPP)
  - Pension amounts as described above, but **resulting from the death of a spouse.**

**NOTE:** Pension credit amount not needed to arrive at nil tax payable, **can be transferred to a spouse.**

## Canada Employment Tax Credit- ITA 118(10)

**For 2015**, -available to all individuals who earn Canadian employment income. the credit is based on 15% of the lower of: \$1,146 ;and  
the actual net employment income.

-The maximum credit is \$172 (ie,15% x \$1,146)

**NOTE: If no employment income is earned, then no employment credit is available**

## Adoption Expense Credit-ITA 118.01

This credit is based on eligible expenses incurred and is not restricted by the taxpayer's net income

- **For 2015, ITA 18.01** allows a credit based on up to \$15,255 in eligible adoption expenses regarding the adoption of an eligible child, ie, per child. Excess expenses cannot be carried forward. The maximum credit that can be shared is \$2,288 (15% x \$15,255)
- An “eligible child” means a child not over 18 years old at the time that the adoption order is issued or recognized by the Canadian government
- “Eligible Adoption Expenses” means an amount paid for expenses incurred during the “adoption period”(see definition in text) such as adoption agency fees, court and legal fees, reasonable and necessary travel costs, translation fees, etc
- Any reimbursement (eg from an employer) that are considered as a taxable benefit, will not reduce the eligible adoption expense

**NOTE: This credit can be claimed by either spouse**

## Public Transit Passes Tax Credit –ITA 118.02

- **For 2015**, a credit based on 15% of the cost of monthly or longer transit passes passes purchased. Provided that receipts are available, there is no maximum cost limit.
- This credit can be claimed separately or in the aggregate by an individual for:
  - 1) an individual;
  - 2) an individual's spouse or common-law partner; and
  - 3) an individual's dependent children who have not attained the age of 19.

**Note:** Dependents who have attained age of 19 or over, must claim their own public transit credit

**NOTE: Credit can be aggregated (spouses + minor children passes) and claimed by either spouse.**

## Children's Fitness Tax credit-ITA 122.8

**Note:** Effective 2015, the children's Fitness Tax credit is also refundable, ie, taxpayers owing no tax will receive a check in respect to a credit that can not be used to offset non-existing tax payable

**Children's Fitness Tax credit** applies to a **child who is under 16** at the beginning of the year, (includes adopted children) for fees paid to provide the child with eligible fitness programs involving physical activity, ie, the program must require significant physical activity that contributes to cardiorespiratory endurance.  
**Note:** Does not include cost of travel, food, beverage or accommodations related to the fitness program.

For 2015, this credit is based on **15% of up to \$1,000** of fitness costs per child, per year; max credit of **\$150**

**Furthermore**, the Children Fitness Tax credit program:

-is extended to a **child under 18**, at the beginning of year, if the child qualifies for the **Disability Tax credit**; and;

-a **supplement amount of \$500**, or a credit of **\$75**, will also apply,

**Conclusion:** For a disabled child under 18, a maximum amount of \$1,500 or a credit of \$225 can be claimed

**Note:** The supplement **does not apply for a child that is only considered to be infirm**

**Important:** The \$500 supplement is not based on actual costs incurred. It is available as long as at least \$100 in eligible fees was incurred for a disabled child.

eg, -if only \$100 is paid for a disabled child, the credit amount is based on \$ 100 plus \$500 supplement = \$600

-if only \$500 is paid for a disabled child, the credit amount is \$500 plus the \$500 supplement = \$1,000

**NOTE: The Child Fitness Credit can be claimed by either spouse**

### **Children's Arts Credit-ITA 118.031**

**Note:** Unlike the Child Fitness Tax credit, this **credit is not refundable**.

**For 2015**, a credit based on eligible fees paid for each **child under 16**; **or under 18**, if the child qualifies for the Disability Tax Credit:

Eligible fees include programs related to artistic, cultural, recreational or developmental activity.

-The credit is for a **maximum amount of \$500**, ie, a **credit of \$75** ( \$500 x 15%)

**Furthermore**, a **supplement amount of \$500**, or a credit of **\$75**, for a child under 18 at the beginning of year that qualifies for the **Disability Tax Credit**, will also apply.

**Note:** The supplement **does not apply for a child that is only considered to be infirm**

**Important:** The \$500 supplement is not based on actual costs incurred. It is available as long as at least \$100 in eligible fees was incurred for a disabled child.

eg, -if only \$100 is paid for a disabled child, the credit amount is based on \$ 100 plus the \$500 supplement = \$600

- if \$600 is paid for a disabled child, the credit amount is the max for art of \$500 plus \$500 supplement = \$1,000

**NOTE: This credit can be claimed by either spouse**

## **Volunteer Firefighters and Search and Rescue Workers Credit**-ITA 118.06 and 118.07

**For 2015**, a credit based on \$3,000 that is equal to a credit of \$450 (15% x \$3,000) for qualifying volunteers who perform at least 200 hours of volunteer service

## **First Time Home Buyer's Tax Credit**-ITA 118.05

**For 2015**, **first time home buyers** acquiring a qualifying home can claim a non-refundable tax credit.

To qualify, the buyer or his/her spouse/CLP must **not have owned and lived in another home in the calendar year of the home purchase or in any of the 4 preceding years.**

The buyer must intend to occupy the home no later than one year after its acquisition.

Credit is equal to 15% of the **first \$5,000 of the cost** of an eligible home resulting in a max credit **\$750.**

**NOTE: This credit can be claimed by either spouse**

## **Medical Expense Credit** - ITA 118.2

- **For 2015**, ITA 118.2 allows individuals a credit equal to 15% of qualifying medical expenses **paid and not reimbursed** reduced by **the lesser of:** 1) 3% of net income; or  
2) \$2,208
- If net income is over **\$73,600**, then \$2,208 will be the maximum reduction against eligible medical expenses. ( $\$73,600 \times 3\% = \$2,208$ )
- Qualifying medical expenses can be claims for **any 12-month period** ending in the year and must be supported by receipts. (ie, does not have to be a 12 month period from Jan 1 to Dec 31)
- ITA 118.2 (2) and IT-509, IT 519 describe the type of medical expenses **(both capital and current in nature)** that qualify for the credit (eg, wheel chairs, prescription drugs, eye glasses, dental care, medical tests and procedures, **premiums paid to private health and dental plans, including employee contributions made to fund employer's health and dental plans,** etc.)
- The list of eligible medical expenditures has greatly expanded over the years.

**NOTE:** **After March 22, 2010**, expenses incurred for **purely cosmetic reasons** (eg, liposuction, hair replacement, Botox injections, teeth whitening) **no longer qualify medical expenses that are eligible for the tax credit.** Cosmetic procedures continue to qualify **if required for medical or reconstructive purposes** (eg, facial cosmetic surgery due to an accident)

Qualifying medical expenses are segregated into 2 groups:

**Group 1**-qualifying medical expenses incurred by **taxpayer, spouse/CLP & minor children (under 18)**

**Group 2**- qualifying medical expenses of **each of the taxpayer's dependents other than minor children**

NOTES: -Dependent's age is not a factor that could deny a credit (**their net income will be the factor**)  
-Credit is only available only to the individual **who actually pays the eligible amounts**  
-Child or dependent cannot make a claim, **if the expense was paid by another individual**

**Group 1-Qualifying medical expenses incurred by taxpayer, spouse/CLP & minor children (under 18)**

Eg: taxpayer NI- \$78,400; Group 1 Expenses- \$ 4,000

Lesser of:

LESS: the lesser of 1) 3% of Net Income of the taxpayer;  $1-3\% \times \$78,400 = \$2,352$  n/a  
or, 2) \$2,208 the max for 2015 **2- Maximum \$2,208** → lesser **(2,208)**  
Expenses eligible for the credit \$ 1,792

PLUS:

**\*Group 2- Qualifying medical expenses paid for each of the taxpayer's other dependents**

Eg, adult children **aged 18 or over**, parent, grandparent, etc

Eg: dependent NI \$5,000; Medical expense – \$3,000

Lesser of:

LESS: The lesser of 1. 3% of Net Income **of each dependent in this group 2**  $1. 3\% \times 5,000 = 150$  → lesser (150)  
2. \$2,208 (for 2015) 2. Maximum 2,208 n/a  
Expenses eligible for the credit \$2,850

**Note: The same calculation and "lesser of" determination is done for each dependent in this Group 2**

**EQUALS:** The total amount of the eligible expenses for Group 1 and 2 **\$ 4,642**

The taxpayer's medical tax credit will be  $15\% \times \$4,642 = \$696$

**Note: Qualifying medical expenses can be combined and claimed by either spouse/CLP**

Eg Net income for husband- \$12,000; \$90,000 for wife; combined medical expenses - \$8,000

Option 1. Husband claims-  $15\% \times \$7,640$  (\$8,000 less 3% reduction of \$360 = \$7,640) = \$1,146 credit

Option 2. Wife claims -  $15\% \times \$5,792$  (\$8,000 less max reduction of \$2,208 = \$5,792) = \$869 credit

It would seem that Husband should make the claim **because his credit is greater**

**However**, as the husband's tax payable is only \$101, [ie,  $15\% \times (\$12,000 \text{ less basic credit of } \$11,327 = \$673)$ ], therefore the full credit of \$1,146 is not used, ie, a credit of **\$1,045** (\$1,146 credit available less \$101 used) **will be lost if the medical claim is made by the husband.**

As the wife has higher income that will generate taxes payable greater than her medical credit of \$869, therefore it is better for the wife to claim the medical credit. There is a **saving \$768** in cash taxes for the couple as a whole, by having the wife claim the credit, as follows:

Option 1. if Wife claims 869 → total credit will reduce reduce tax- none of her credit is lost

Option 2. if Husband claims 101 → only partial credit is used to reduce tax- \$1,045 credit is lost

Net family tax savings 768 → if wife claims the medical credit

**Conclusion:** from a couple perspective, tax savings does not occur when you let the spouse with the bigger medical tax credit make the claim, **ie, bigger is not always better**

**NOTE:** For Quebec tax, there are no tax planning opportunities because while qualifying medical expenses can also be grouped and claimed by either spouse, the Quebec credit is **reduced by 3 % of the couple's net income**, effectively producing the same credit regardless of which spouse makes the claim.

**IGNORE:** Refundable Medical Expense Supplement, as per ITA 122.51 is available to low-income Canadians, a refund check is issued if no tax liability exists to be offset by the medical credit

## Disability Credit - ITA 118.3 → Claimable by the Disabled Taxpayers

### All Ages

- **ITA 118.4(1)** describes the conditions necessary for an individual to qualify for the disability credit; essentially a **severe and prolonged impairment that restricts basic living activities for a continuous period of at least 12 months** (eg, blindness, bed ridden, etc.) and supported by Form T2201 signed by a physician.
- **For 2015**, the credit available under ITA 118.3 is **15% of \$7,899** (ie, **\$1,185 credit**)

**Note:** For the disabled taxpayer who is claiming this credit:

- there is **no net income threshold that can reduce this basic disability tax credit**;
- nor is there any income threshold that can reduce this credit **if it is transferred**

**Disability Supplement**- if the individual who qualifies for Disability Credit **is also under 18**, then

- **For 2015**, a supplement of **\$4,607**, ie, **\$691 credit**, is available for **dependent children under 18**, for a total credit of **\$1,876** (**\$691 + \$ 1,185**) but the supplement is **reduced by child care and attendant expenses claimed in excess of \$2,699**.

**NOTE:** the supplement reduction is **based on expenses claimed, not the net income of the disabled**

-The supplement credit is **lost after total expenses** of **\$7,306** (**4,607 + 2,699**) are claimed as **child care and attendant costs**

**Note:** For a **disabled person under 18**, the maximum disability credit possible is **\$1,876**

Basic	- \$7,899 x 15% = \$1,185	→ not restricted by the disabled's net income or medical expenses
Supplement	- 4,607 x 15% = 691	→ <b>restricted by medical expenses claimed, not net income</b>
	\$12,506	<b>\$1,876</b> → max credit available to claim (or to transfer if applicable)

## Disability Tax Credit Transfer - to a Spouse or a Supporting Person

**NOTE:** Disabled individuals without sufficient tax payable to use their disability tax credit, can **transfer part or all of their basic disability credit and if applicable, the under 18 supplement that is not needed to reduce their tax payable to Nil**, to the following individuals:

1. A spouse, or
2. A **supporting person** who claimed the disabled individual as:
  - A dependent under the **Eligible Dependent** credit provision, or
  - A dependent for the purposes of the Caregiver credit ,or
  - An Infirm/disabled Dependent over 17;

**NOTE:** If the disabled person does not qualify for one of the above credits, then in order to make this transfer more accessible, **the ITA allows the credit can be transferred to a supporting individual that:**

- i) - **could have claimed the eligible dependent credit**, if neither the supporting individual or disabled dependent were married; and
- ii) - **could have claimed the disabled dependent over 17**, or **the caregiver credit**, if the dependent had been 18 or over and had no income

For 2015: -Maximum credit transfer is  $\$7,799 \times 15\% = \$1,185$ , or

-If **the disabled is under 18**, then the maximum transfer is  $(\$7,799 + \$4,607) \times 15\% = \$1,876$

### Example: Dependent with a Disability

Lorraine Tramer lives with her husband and 20-year old paraplegic daughter, Marie, who qualifies for the disability tax credit. Lorraine has medical expenses of her own of \$2,500. During 2015, Lorraine paid medical expenses of \$ 9,850 for Marie, none of which involved attendant care expenses. Marie has no income of her own. Lorraine's Taxable Income for 2015 was \$108,600.

Determine the total amount of tax credits related only to Marie that will be available to Lorraine.

### Solution

-Lorraine has sufficient other medical expenses to exceed the 3 per cent threshold (ie, over the \$2,208 max) so any eligible medical expenses related to Marie can be claimed by Lorraine

-Her income is too high to qualify for the refundable medical expense supplement.

-Eligible dependent credit is not possible as Lorraine is married during the year

-As Marie has no income, her regular disability credit can be transferred to Lorraine.

-As Marie is over 17, the disability supplement is not available.

-Lorraine will be able to take the caregiver credit as Marie lives with her and is over 17

-Because Marie is disabled, Lorraine is also able to claim the Family Caregiver Amount in addition to the Caregiver credit.

NOTE: Marie could also qualify for the Invalid over 17 credit because she is also invalid, but according to ITA 118(4)(d), the caregiver credit must technically be taken, but in this case, it makes no difference in the credit amount or income threshold limits as Marie's net income is Nil

-As Marie has no income, all of Marie's medical expenses will be eligible

Lorraine's total credits related just to Marie would be as follows:

Disability Transfer- Regular Amount transferred	\$ 7,899
Caregiver	4,608
Family Caregiver Amount	2,093
Marie's Medical Expenses -	\$9,850
- Lesser Of:	
• [(3%) nil net income ] = 0	0
• 2013 Threshold Amount = \$2,208	
	9,850
Total Credit Base	\$24,450
Rate	15%
<b>Total Credits Just Related To Marie</b>	<b>\$ 3,668</b>

## Education Related Credits

### 1. Education costs and fees incurred that are eligible for a tax credit

#### i) Tuition fees-ITA 18.5

- ITA 118.5 allows a credit for qualifying tuition fees paid with respect to a calendar year, regardless of the year actually paid. Tuition fees must be *greater than \$100 and be paid to any post secondary institution in Canada* (eg, Cegep, University, trade school) or one certified by the Minister of Human Resources Development
- Also includes tuition fees paid to Universities outside Canada (for full time studies). For US border colleges or universities institutions could be for part time studies. Minimum duration for institutions outside Canada is now 3 weeks, instead of previous 13 weeks

## ii) **Ancillary fees** -ITA 118.5(3)

- **Mandatory ancillary fees** imposed on all full or part time students (eg, health services) can be considered as being eligible **tuition fees**
- **ITA 118.5(3)(d)** allows up to **\$250 of ancillary fees** to be included as part of tuition fee purposes, even if not imposed on all full or part time students.

## iii) **Examination fees**-ITA 118.5(1) and (3.1)

- **Examination costs** that **exceed \$100** (eg, exam materials, ID cards, but not travel costs or equipment) and examination costs to join professional organizations (eg CPA) are also considered as being eligible for the tuition credit.

**NOTE:** Regardless of who actually pays the tuition fees, **only the student can claim the credit** to reduce his /her taxes payable to Nil.

**Only any unused credit not needed for nil tax payable, can be transferred to a qualifying person-TBD**

**In 2015,** the tuition credit is based on 15% of the above applicable tuition fees, **without any upper limit.**

## 2. **Education Credits**-ITA 118.6

- **In 2015,** ITA 118.6 allows an education credit as follows:
  - For full time attendance-**15% of \$400 per month (ie, credit of \$60)**; and
  - For part time attendance (min 12 hrs per mth) -**15% of \$120 per month (ie, credit of \$18)**

For students who qualify for the **disability tax credit** are entitled to the full time student **\$60 tax credit**, even if attending part time

## 3. **Textbook Tax Credit**

- **In 2015,** the credit is not based on actual textbook costs, but tied to Education Credit process.
  - For full time students, the credit is **\$10 (\$65 x 15%) per eligible month**;
  - For part time students, the credit is **\$3 (\$20 x 15%) per eligible month.**

For students who qualify for the **disability tax credit** are entitled to the full time **\$10 tax credit** for textbooks, even if attending part time

**NOTE:** Education and textbook tax credits are prescribed amounts and **not dependent on actual costs incurred**

To make the tax credit claim, **T2202A slips** are required. Canadian educational institutions issue these slips that report eligible tuition fees and the months of attendance under part time or full time status.

Note: Non-Canadian University registrars have to fill in **form TLI1AA** in order for Canadian students to claim the tuition and education credits on their Canadian tax returns.

## 4. **Interest expense on Student Loan Credit**-ITA 118.62

- **ITA 118.62** allows a credit, **but only for the student**, for the interest paid on specified student loans based on **15% of the interest paid** in the year or in any of the **5 preceding years ending after 1997**, ie, 5-year carry over period. **This credit for interest expense can not be transferred**

**ITA 118.61 allows a student only**, to carry forward any unused credits that can be used to offset the student's future tax as follows:

- 1- Unused tuition, education and textbook credits → **over an unlimited period**; and
- 2- Unused credits due to interest expense → **only over a 5-year period**

### **Transfer of Tuition, Education & Textbook Credit - ITA 118.8**

- **ITA 118.8** allows for the transfer of unused tuition, education and textbook credits, **but not on the loan interest, only to a supporting parent or grandparent or student's spouse.**

Note: **No other family member can be transferred** the credit regardless who paid the tuition-see below

- **Maximum unused credit transfer, per student (ie transferor), is a 15% credit on \$5,000 (ie ,750) → reduced by any amount of the tuition and education credit earned in the current year that was claimed in order to reduce the student's taxes payable to Nil**

ie, **Any credit claimed by the student will reduce the \$750 credit eligible for transfer.**

**SUMMARY:1-Only the tuition, education and textbook credit earned in a year can be transferred to a supporting spouse, parent or grandparent in that year only**

**Note: No other person** (eg, sister/brother, aunt /uncle, cousins, etc.) can be transferred this credit, **even if that other person has actually paid the student's tuition fees**

2-Any unused and non-transferred amount is **not available for future transfer to a supporting spouse, parent or grandparent**; only the current year's earned credit is allowed for a transfer

#### **EXAMPLE-2015**

Tuition fees	2,000	Student taxable income	11,427
Ed. Amount (10 mths x 400)	4,000	Basic amount	11,327
Text books (10 mths x 65)	<u>650</u>	Taxable income	100
Total available for the year	6,650	Educational amount required	(100)
		Revised taxable income	<u>Nil</u>

#### **Transferable Amount**

Lesser of: (5,000 x 15%) 750

or,

Maximum allowed 5,000

Used by student (100)

Allowed Transfer amount 4,900\* X 15%= 735\* tax credit

\* is the lesser

#### **Carried Forward-for Student Only**

Available 6,650

Used by student (100)

Transferred (4,900)

Carry fwd balance\*\* 1,650

\*\* **unlimited c/f by student only cannot be transferred**

**Note:** In 2011, these education tax credits were expenditure to the federal government of \$1.6 billion in lost tax revenues. For Quebec, \$137 million was lost tax revenues due to the credit given for tuition.

## Employment Insurance (EI) & Canada/Quebec Pension Plan Credits - ITA 118.7

ITA 118.7 allows a credit of 15% of an individual's contributions to the EI and CPP/QPP programs.

### 1. Employment Insurance (EI)

**In 2015, for residents other than Quebec,** the maximum premium paid by members of the EI program is **\$931** (\$49,500 x 1.88%) resulting in a **maximum credit of \$140** (15% x \$931).

**Reminder:** the employer's contribution portion is 1.4 of employee's contribution is not a taxable benefit

**For Quebec residents,** for 2015- the EI max is lower than the rest of Canada at **\$762**, (\$49,500 x 1.53%) because Quebec has opted out of the maternity, parental and benefits part of the EI program and administers its own plan under the Quebec Parental Insurance Program-QPIP. The premium for the QPIP is max of **\$391** (\$70,000 x 0.559%).

**Note:** The employer's QPIP contribution portion is \$547 (\$70,000 x 0.782) and is not a taxable benefit

**For Quebec residents,** the total premiums for EI -\$ 762 and QPIP -\$391, for a total of **\$1,153**. Both amounts are eligible for a federal credit based on 15% of the total premiums- **\$173**

**SUMMARY:** -For Quebec residents, the EI max contribution is \$762

-For Non-Quebec residents, the EI max contribution is \$931

### 2. Canada/Quebec Pension Plan (same limit/credits for both Canada and Quebec Plans)

**In 2015,** the maximum eligible contributions (eg, regarding employment & business income) to the CPP/QPP programs is **\$2,480** (\$53,600 less \$3,500x4.95%)-**max credit of \$372** (15% x \$2,480).

**Reminder:** the employer's equal matching contributions is not a taxable benefit

**Reminder:** **For self-employed taxpayers:**

-Contributions made to the EI and C/QPP, in their capacity as virtual employees-> Credits

-Matching contributions made in the capacity of a "virtual" employer-> division B deduction

**Note:** **Any employee overpayments** to EI, QPIP and CPP/QPP programs are refunded as part of the individual's annual income tax return filing process.

**NOTE:** The Quebec Income Tax Act does not provide separate NRTC's for QPP/PPP contributions, the EI/QPIP premiums, or contributions to the Health services Fund. The NRTC for these employee contributions are taken into consideration in the Quebec basic personal credit that is greater than the equivalent federal basic personal amount

## 1. Transfers of Credits To a Spouse/CLP - ITA 118.8

- **Transferable credits** are those credits earned by one spouse, and under certain conditions, can be transferred to the other spouse; specifically

ITA 118.8 allows for the **transfer of only the below 6 specific tax credits to a spouse (or a CLP):**

-Age credit	-Unused tuition fee credit	-Disability credit including
-Pension income credit	-Unused education credit	-Supplement disability credit

**Note:** Effectively, a spouse/CLP's basic personal credit can be transferred if not required by the spouse

NOTE: Of the above 6 transferable credits, the following **3 credits can also be transferred to certain supporting individuals**, who are not a spouse or a CLP:

- Unused tuition fee credit -> can also be a parent or grandparent (**no others**)
- Unused education credit -> can also be a parent or grandparent (**no others**)
- Disability credit -> can also be an individual who claimed **or could have claimed**, the disabled individual, a credit for the Eligible Dependent, Caregiver or Infirm over 17

### Regarding Credit Transfers to Spouses/CLP:

**First:** the spouse must claim the personal, EI and CPP/QPP credits, and then all the credits that are eligible for a transfer must be claimed to arrive at net taxes payable;

**Then:** the **excess of these credits over the spouse's taxes payable**, can be transferred to spouse

**Note:** the Spouses must not be separated for period of 90 days or more that included Dec 31.

### **2. Credits that can be aggregated and claimed by either spouse regardless who paid:**

**Note:** Unlike transferable credits, these credits are not considered as being transferred by a spouse, **because any one of the spouses can make the claim, and regardless of who made the payment**

#### **SUMMARY**

- |                              |   |
|------------------------------|---|
| -Child fitness credit        | -Public transit passes credit   |
| -Charitable donations credit | - Adoption expense credit   |
| - Medical expense credit     | -Also, the child credit can be claimed by either spouses<br>(Albeit no payments are involved for this credit) |

#### **TAX PLANING CONCLUSION**

- Spouses /CLPs can reduce thier **combined tax burden**, depending on thier situation, by:
- 1-**Pension/OPP/PPP income splitting**- Note: verify if there is no adverse clawbacks of other programs (eg, OAS) or reductions in tax credits (eg, age credit) due to pension split increasing spouse income
  - 2-**Pooling expenditures** and having one spouse make the aggregated claim, ie, child fitness, donations, public transit passes, adoption and medical expenses
  - 3-**Transfer of credits not required** to achieve nil taxable income, ie, the age,pension, tuition, disability and child credits

### **Political Contributions Tax Credits-ITA 127(3)**

#### **Income Tax Rules**

- **For 2015**, individuals (and corporations) can claim a credit for political contributions to **registered federal political parties or candidates** of up to **\$1,275**, for a maximum **credit of \$650**, as follows:
  - 75% of the first \$400 (ie \$300 credit)
  - 50% on next \$350 (ie \$175 credit)
  - 33% on next \$525 (ie \$175 credit)
  - Maximum \$1,275 **\$650 credit**

#### **Federal Accountability Act (FAA) Rules:**

- Restricts political contribution **limits by individuals** to a registered Federal party or candidates **to \$1,200**
- **Total ban on contributions by corporations, trade unions and unincorporated associations**

**NOTE:** Discrepancy between the ITA and FAA regarding dollar limits and ban on corporate contributions

## Dividend Tax Credit - (previously covered in Lecture 6)

### For 2015

- **Non-eligible dividends** received from taxable Canadian corporations are subject to a **18%** gross-up, followed by a dividend tax credit expressed as:
  - 11.017% of the total grossed-up taxable dividend; or
  - 13 % of the actual dividends received; or
  - 72.22% of the gross up amount itself.
- **Eligible dividends** received from taxable Canadian corporations are subject to a **38%** gross-up, followed by a dividend tax credit expressed as:
  - 15.02% of the total grossed-up taxable dividend; or
  - 20.7272% of the actual dividends received; or
  - 6/11 (or 54.5%) of the gross up amount itself.

## Social Benefits Repayments (Clawbacks) - OAS & EI (general knowledge)

### EI

- EI Act requires partial repayment of benefits received if **in 2015**, net income is greater than \$61,875
- Repayment is based on 30% of the lesser of either the excess amount or the EI benefits received in the current year. Any amount repaid is deductible by the taxpayer.

### OAS

- Starting 1989, ITA 180.2 requires repayment of OAS benefits up to an amount equal to 15% of the taxpayer's net income, in excess of a prescribed amount.
  - **In 2015, the net income amount is \$72,809**, including the OAS received. The OAS is **completely repaid at a net income level of \$117,908**.
  - ITA 60 (w) allows for a deduction of any OAS repaid
- For 2015, the max annual OAS is \$6,765

**Note: OAS is no longer actual "paid" during the year if CRA estimates that it must be repaid**

## Labor Sponsored Fund Credits-ITA 127.4 (general knowledge)

- Federal credit is based on 15% of the cost of the investment in the Fund, for a first registered holder, with a maximum annual investment of \$5,000 (ie \$ 750 credit).

**Note: This plan is to be passed out- 2015-10%; 2016-5%; 2016 plus-Nil**

## Investment Tax Credits (ITC) (general knowledge)

A credit is available based on various percentages of certain types of expenditures (eg SR & ED), which can be deducted against taxes otherwise payable

## Refundable Tax Credits based on Income Levels (general knowledge)

1. GST Credit – for 2014 a max of \$268 can be paid to low income individuals
2. Canada Child Tax Credit –for 2014 regarding children under 18; \$1,446 per child; additional \$100 for each dependent in excess of 2. These amounts are paid based on family income thresholds and are non-taxable

**Note: Do not confuse this credit with the Universal Child Care Benefit of \$160 per mth per child that is taxable and paid to families regardless of family income thresholds.**

3. Working Income Tax Benefit- to assist eligible working low income individuals that may lose some social assistance payments as the result of their low income exceeding income thresholds that determine the social assistance (ie, avoid situations where an individual is "better off not working").

## **FAMILY TAX CUT (FTC) –ITA 119.1 – Maximum Tax Credit Benefit- \$2,000**

Effective since 2014, the FTC is based on the principle of **allowing income splitting for couples with children under 18 years** of age.

Consequently, FTC only provides a benefit if one spouse is in a higher tax bracket than the other spouse. If both spouses are in the same tax bracket before and after a notional income split, FTC provides no benefit

**Example:** if a couple had taxable income of \$89,400 earned exclusively by one spouse, then tax payable (before applying tax credits) would be \$16,530 ( tax on \$44,700 @ 15%; plus tax on the next \$44,700 @ 22%). If the couple were allowed to split the income to \$44,700 each, then each would pay tax @15%. Consequently, combined tax payable would be \$13,410 (2 x \$6,705), **a tax avoidance of \$3,129 per year.**

### **The FTC applies to an individual, within a couple, who must:**

- 1-be a Canadian resident at the end of the taxation year;
- 2-have an eligible relation (ie, a spouse or common law partner) for the year, aka, “a couple”;
- 3-have a child under the age of 18 at the end of the year, who ordinarily resides throughout the taxation year with the individual or the individual’s eligible relation;
- 4-not be confined to a prison or a similar institution for 90 days or more in the year.

**Note:** FTC **does not apply to a single parent family, or to couples without children under 18 years old**

FTC would not be available for an individual or an individual’s eligible relation who:

- 1- Does not file an income tax return;
- 2- Elects to **split pension income**; or
- 3- Becomes bankrupt

**Note:** FTC is claimed by one of the individual in a couple with a minor child, **up to \$2,000 max credit**

### **FTC Overview:**

FTC benefit is a complicated calculation based on the difference between:

1. The combined tax payable of the qualifying couple **calculated in the usual manner**; and
2. The combined taxes that would be payable if the higher income individual had **“notionally” transferred taxable income** to the lower income individual

### **Other Basic Rules:**

- The actual amount of taxable income transfer is specified in the ITA via a formula;
- There is no discretion for transferring a lesser amount than the formula provides;
- The transferred amount is subject to an **upper limit of \$50,000**; and
- The **tax credit is limited to \$2,000**
- Either individual in a couple can claim the FTC as a reduction of their own tax payable
- Unlike pension splitting**, the taxable income amount that is being split via the **notional transfer** is not **actually recorded in the tax returns of each individual**.  
(eg, allocated transferred income is not considered as earned income for the purposes of determining child care expense limit restricted to the spouse with the lower income)

### **SUMMARY:**

You must be aware of the general aspects of the FTC program, ie, who it applies to and max benefits, but you can ignore the actual calculation of the FTC, a complicated process involving Base Tax Payable and Adjusted Base Tax Payable, that is best suited to income tax return software programs.

## EXAMPLES: Personal Tax Credits

In each of the following independent Cases, determine the maximum amount of 2015 personal tax credits, including transfers from a spouse or dependant, that can be applied against federal Tax Payable by the taxpayer

1. **Mr. Hanson has Net Income For Tax Purposes of \$40,000, none of which is employment income. He is single and provides support for his mother. His mother is a widow who resides in England, and has income of \$700 per year.**

**SOLUTION:**The amount of the personal tax credits would be as follows:

1. **Mr. Hanson** will qualify for the following credit:

Basic Personal Amount	\$11,327
Total Credit Base	\$11,327
Rate	15%
Total Credits	\$ 1,699

**Note:** While his mother appears to be dependent, **she is not a resident of Canada**. The **only non-residents who qualify** for personal credits are a spouse and children. Also, to be eligible for the Caregiver Credit, Mr. Hanson's mother would have to reside with him.

2. **Mr. Johnson (a non-Quebec resident) has Net Income For Tax Purposes of \$250,000, all of which is employment income. His employer has withheld and remitted the required EI and CPP amounts. Mr. Johnson was married on December 1, 2015. His wife, an accounting student, had salary of \$27,500 for the period from January 1 to November 30, 2015 and \$2,500 for the month of December 2015.**

**SOLUTION:** Mr. Johnson will qualify for the following credits:

Basic Personal Amount	\$11,327
<b>Spousal*</b>	<b>Nil</b>
EI (Maximum- non- Quebec resident)	931
CPP (Maximum)	2,480
Canada Employment	1,146
Total Credit Base	\$15,884
Rate	15%
Total Credits	\$ 2,383

**\*Note:** **His wife's income will have to be considered for the entire year** and, with her having a total of over the basic amount (11,327) , ie, of \$30,000 (\$27,500 + \$2,500), the spousal credit will be eliminated.

3. **Mr. Massey has Net Income For Tax Purposes of \$60,000, none of which is employment income. He lives with his common-law wife and her two children from a previous marriage. One of the children, Hansel is eight and diagnosed with an infirmity but not with a disability, the other child, Gretel is 12 and in good health. Neither his wife nor the children have any source of income.**

**SOLUTION:** Mr. Massey will qualify for the following credits:

Basic Personal Amount	\$11,327
Spousal- no income	11,327
Family Caregiver Amount –Hansel under18 and -infirm	2,093
Gretel -under 18 and in good health	<b>Nil</b>
Total Credit Base	\$24,747
Rate	15%
Total Credits	\$ 3,712

**Note:** -Hansel is infirm, but is under 18, hence the **Infirm over 17 credit does not apply**, but stand alone FCA does apply  
-Hansel does **not qualify for the Caregiver credit** , although he lives with the taxpayer, he is under 18  
-Gretel is in good health and does not qualify for any personal credit

4. Mr. Jones is married and has Net Income For Tax Purposes of \$70,000, **none of which is employment income**. His 19 year old dependent son attends university. His wife has Net Income For Tax Purposes of \$1,300 consisting all of interest income, and his son has Net Income For Tax Purposes of \$2,900. His son **does not wish to transfer** his tuition, education or textbook credits.

**SOLUTION: Mr. Jones will qualify for the following credits:**

Basic Personal Amount	\$11,327
Spousal (\$11,327 - \$1,300=10,027)	10,027
Total Credit Base	\$21,357
Rate	15%
Total Credits	\$ 3,203

**Note:** There is no tax credit available for his son, not inform and does not wish to transfer his education credits even though he has Nil tax payable.

5. Ms. Morrison is divorced, maintains a residence far from her former spouse, and receives \$1,000 per month in child support payments. She has custody of the two children from the marriage. Both children have been diagnosed with an infirmity but not with a disability. One child is 5 years old with no income. The other child is 15 years old and net income of \$2,500. Her net income is \$50,000, none of which is employment income.

**SOLUTION: Ms. Morrison will qualify for the following credits:**

Basic Personal Amount	\$11,327
<b>Eligible Dependant -(5 year old child with no income)</b>	<b>11,327*</b>
Family Caregiver Amount-5 year old infirm	2,093*
Family Caregiver Amount-15 year old infirm	2,093*
Total Credit Base	\$26,840
Rate	15%
Total Credits	\$ 4,026

**\*Note:** -As per ITA 118(4)(c), you must claim the Eligible Dependent credit, **but, you can choose which child**. Claim the 5-year as the nil income will not reduce Eligible Dependent credit, plus, claim the FCA because of infirmity  
 -The 15 year old child qualifies for the stand alone FCA  
 -The Caregiver credit or the Infirm over 17 credit could not apply because both children are under 18

6. Mr. Bagley is 68 years old and has Net Income For Tax Purposes of \$27,000, which is comprised of OAS benefits of \$6,765 and \$20,400 of a company pension income. His wife is 52 years old and is blind. She has no income of her own.

**SOLUTION: Mr. Bagley will qualify for the following credits:**

Basic Personal Amount	\$11,327
Spousal- no income	11,327
Family Caregiver Amount*	2,093
Age**	7,033
Pension (re. company pension plan)	2,000
Spouse's Disability Transfer	7,899
Age Transfer***	Nil
Total Credit Base	\$41,679
Rate	15%
Total Credits	<b>\$ 6,252</b>

**Note:** \*Wife is blind, same rules as being infirm  
 \*\*As Mr. Bagley's Net Income For Tax Purposes is less than \$35,466 there will be no reduction in his age credit (or a claw back of his OAS pension income).  
 \*\*\*No age credit transfer from the spouse because she is not 65 or over.

**NOTE:** Mr. Bagley has more tax credits than tax payable (income of \$27,165 and a tax credit base of \$41,679). All of the excess unused credits will be lost as **they are non-refundable**

## **OTHER CREDITS** –Chapter 11 (pages 587-595)

### **1. Transfer of Dividends to Spouse or CLP**

- If the spousal credit has been reduced or eliminated due to the spouse receiving dividend income from taxable Canadian corporations, then **ITA 82(3)** permits an election to transfer all the dividends received by a taxpayer to a spouse or CLP so that a spousal credit is created or increased, eg, the spouse taxpayer will have no net income and thus create a full spousal credit

**Note:** This dividend transfer strategy is **not advisable if the taxpayer that is transferred the dividend is in a marginal tax bracket higher than the 1<sup>st</sup> bracket of 15%** in 2015 because the value of the spousal credit is based on the 1<sup>st</sup> bracket of 15%, whereas the tax on this additional income will be based on brackets higher than 15% hence resulting in more family tax payable

Eg. Spouse A transfers sole income of \$11,327 earned from Canadian dividends to Spouse B with taxable income of \$60,000 (ie, Spouse B is in the 15% **AND** 22% marginal brackets)

Ignoring DTC issues, Spouse B will **pay additional tax** of 7% (22%-15%) on the transferred amount of \$11,327 or **\$793**, ie, the spousal credit earned is based on 15% of \$11,327 but the tax on this additional income is on 22%. Better strategy would be not to transfer the dividend income

#### **No Dividend Transfer**

	Taxable Income	Tax	NRTC	Tax Payable	
Spouse A	11,327	1,699	(1,699)	Nil	
Spouse B	<u>60,000</u> 71,327	10,071*	(1,699)	<u>\$8,372</u>	*(6,705 on TI 44,701) + (3,366 on TI 15,299)

#### **Dividend Transfer**

	Taxable Income	Tax	NRTC	Tax Payable	
Spouse A	Nil	Nil	Nil	Nil	
Spouse B	71,327	12,563**	(3,398)***	<u>\$9,165</u>	**((6,705 on TI 44,701) + (5,858 on TI 26,626) *** basic 1,699 plus 1,699 spousal credit

**Conclusion:** Do not transfer the dividend income in this case.

The transferred income will be taxed at a rate- 22% that is greater than the corresponding spousal credit rate of 15%, resulting in **more family tax payable -\$793** - (\$9,165-\$8,372)

### **2. Charitable Donation Credit**

**NOTE:** Refer to Chapter 4 pages 160-162 and Chapter 11 pages 588-593

#### **Regular Donations - ITA 118.1**

- For 2015**, a tax credit of - **15% of the first \$200** ; and (to encourage more donations)  
- **29% of any additional donation.**

There are yearly limits on claiming the donation credit - (normally 75% of net income)-see rules

**Either spouse can claim all the combined donations.**

**NOTE:** Good tax planning calls for one spouse to make the claim if combined donations are over \$ 200, thus having the 15% rate on \$200 apply only once, and 29% for the balance

eg, \$400 claimed by one spouse -->  $\{ \{ \$200 \times 15\% = \$30 \} + \$200 \times 29\% = \$58 \} \} = \$88$   
\$200 claimed separately -->  $[ \$200 \times 15\% = \$30 ] + [ \$200 \times 15\% = \$30 ] = \$60$   
More tax credit if claimed by one spouse--> \$28

### First-Time Donor Super Credit (FDSC) - ITA 118.1(3.1)

-Allows for an additional 25% credit on up to \$1,000 in eligible donations

eg, on eligible donation of \$1,000-->  $15\% + 25\% = \underline{40\% \text{ of the first } \$200}$  \$ 80 ; and  
-->  $29\% + 25\% = \underline{54\% \text{ on the balance of } \$800} = \underline{432}$   
Total credit \$512

on normal donation of \$1000---->  $15\% \text{ on } \$200 = \$ 30$   
---->  $29\% \text{ on } \$800 = \underline{232}$   
Total credit \$262 Extra donation credit \$250

-FDSC can be shared by first-time donor couples, but couples must share \$1,000 limit

### Complicated rules:

- this is a temporary credit available only for the taxation years 2013 to 2017
- donations must only be in cash and made by first time donors;
- to qualify as a first time donor, the taxpayer nor spouse/CLP can have claimed a donation credit since 2008(Note-unclaimed donations do not count)

**NOTE:** As the FDSC can only be claimed once, during the 2013 to 2017 period, it may be advantages to *carry forward eligible donations and make the claim when the \$1,000 limit is reached or up to 2017*,

Charitable donation claim is optional in the year of donation; can be carried forward for 5 years.

This is helpful in cases when:

- 1) Donations exceed the yearly limits. Each year's claim for the deferred donation credit is based on limitations similar to new donations for each year. (see below limitations)
- 2) Annual donations are relatively small, so they can be saved for a few years and then pooled when they are over \$200, so that a higher credit is earned ( ie, 29% vs 15%)
- 3) No taxes payable in the year (eg, due to low income or higher other deductions and credits)

ITA 118.1 defines *4 types of charitable donations*.

- a) Charitable gifts donated to registered charities, Canadian amateur athletic associations, Canadian municipalities, universities, listed foreign universities, etc.
- b) Crown gifts made to Her Majesty in right of Canada or a province.
- c) Cultural gifts that are confirmed as such by the Property Export Review Board.
- d) Ecological gifts the Environment Minister certifies as ecologically sensitive land needing preservation.

- **Limitations:**

- 1) For a) **Charitable gifts** and b) **Crown gifts**, limit based on **75% of Net Income** (individuals /corp)
- 2) For individuals, the **limit is 100%** in the year of death and the preceding year.
- 3) For **gifted capital property resulting in a capital gain, donation limit is increased by 25% of the taxable capital gain; if gifting results in recaptured CCA, the donation limit is increased by 25% of the recapture.**
- 4) **No limitation** in respect to c) **Cultural gifts** or d) **Ecological gifts** (ie, up to 100% of Net Income).

### **Gifts of Publicly Traded Shares and Ecological Sensitive Land**

- Special rules regarding any **capital gains that may be triggered** pursuant to the donation **after May 1, 2006** of publicly traded shares and ecological sensitive land, in that, the **usual capital gains inclusion will not apply**. Effectively, the normal capital gain computation rules first apply, and then **a nil exclusion rate applies** resulting in a **nil taxable capital gain**.

Eg. Shares donated at FMV of \$150, with an ACB of \$50 will result in a capital gain of \$100 and because of they were gifted, a special **inclusion rate of nil not 50%** will apply, which means that there will be no taxable capital gain pursuant to the gifting.

**Note:** However, if gifted shares result in a capital loss, the allowable capital loss for carry over purposes, will be **based on 50% not nil**. This would be similar as the case of a normal disposal.

### **Gifted Shares Acquired Through Exercising Options**

Special rule for gifted shares **after May 1, 2006** acquired through options. In addition to the 50% ITA 110 deduction based on the employment stock option benefit income inclusion, when the options were exercised, there will be another deduction of 50%, as long as **the donation is made within 30 days of the shares being acquired through options**.

Effectively, **an employee stock option benefit that occurs pursuant to the exercise, will not be taxable, because in addition to the normal 50% deduction under ITA 110, there will be an additional 50% deduction** that will result in a Nil employee taxable benefit

### **Canadian Cultural Property**

ITA 118.1 (10.1) **deems the POD of donated Canadian Cultural Property to be the FMV of the property in all cases. However, in conjunction with ITA 39(1)(a)(i.1), the difference between FMV and the ACB is deemed not to fall within the meaning of capital gains.** Therefore, the value of the donation for credit purposes is always FMV **and there is no taxable capital gain**

### **Gifts of Capital Property**

- ITA 118.1(6) allows an election to be made in respect to deeming the FMV of capital property donated as Charitable Gifts, Crown Gifts and Ecological Gifts, to be between the ACB and FMV of the donated property.

Election amount, is **used for the purposes of the donation tax credit**, and allows the taxpayer **to determine the amount of triggered capital gains and recapture**, regarding the donated property.

### **Example 1-Donation of non-depreciable assets that are not Publicly Traded Shares**

**Facts** - Non-depreciable asset (eg land) donated by an *individual in the 29% bracket*  
ACB - \$100,000; FMV - \$150,000

#### **Tax Consequences if:**

Election 1) If elected amount chosen for the deemed FMV is \$100,000 = No Capital Gain  
-Donation Credit -  $(15\% \times \$200) + (29\% \times \$99,800) = \underline{\$28,972}$

Election 2) If elected amount chosen for the deemed FMV is \$150,000, then  
- Taxable capital gains = \$25,000 (FMV \$150,000 -ACB \$100,000 X 50%)  
- Tax on Taxable Capital Gain @ 29% x \$25,000 = \$7,250

Donation Credit - $(15\% \times \$200) + 29\% \times \$149,800$	\$43,472
Less: tax payable on taxable capital gain	<u>(7,250)</u>
Available Donation Credit net of tax	= <u>\$36,222</u>

**Conclusion:** Election 2 results in a larger donation credit

### **Example 2-Donation of depreciable assets**

**Facts** - Depreciable asset (eg, building) donated by an individual *with no other income sources*  
-ACB - \$100,000; UCC - \$65,000; FMV - \$130,000  
-Elected FMV of \$150,000

#### **Tax Consequences:**

- Taxable capital gains - \$15,000 (FMV \$130,000 -ACB \$100,000 X 50%)  
- Recaptured CCA - \$35,000 (ACB \$100,000 – UCC \$65,000)  
- Total net income - \$50,000\*

Tax payable on \$50,000-	\$7,871	$(\$44,701 \times 15\%) + (\$5,299 \times 22\%)$
Donation tax credit (if based on limitation)	<u>(14,472)</u>	$(\$200 \times 15\%) + (\$49,800 \times 29\%)$
Excess donation credit	\$ (6,601)	

#### **\*Donation Limitation rules**

75% of net income-\$50,000 -	\$37,500
Plus additional: 25% of taxable capital gains -	3,750
25% of recaptured CCA -	<u>8,750</u>
Total Maximum Donation Limit	\$50,000

**NOTE:** As a donation credit claim is discretionary, claim only what is required to result in nil tax payable and carry forward the excess up to 5 years

	<u>Donation</u>	<u>Credit</u>
eg, claim	$200 \times 15\% =$	30
	<u>27,310</u> x29% =	<u>7,920</u>
	27,510	<u>7,950</u> → donation credit required for Nil tax payable
<b>Donation Carry fwd</b>	<u>122,490</u>	
<b>Elected Donation@ FMV</b>	<b>150,000</b>	

## Foreign Tax Credits (FTC) – previously also covered in Lecture 6

Credits reducing federal income tax are available for taxes paid to foreign jurisdictions

- **Foreign source income is included at 100% for Canadian tax purposes** (ie, the gross amount earned before foreign taxes were withheld), however any **foreign taxes payable or withheld**, will generally be granted a foreign tax credit (FTC)\* or a deduction that can be used to offset Canadian taxes payable, as follows, or both:
  - i. **For non-business income** (ie property income), ITA 126(1) provides a foreign tax credit for individuals that is **limited to a maximum of 15% of the foreign source non-business income**. If withheld tax exceeds 15%, **excess of 15% cannot be carried over as a future FTC, but can be deducted as an expense** under ITA 20.

### Example

		<u>Income reported</u>	
Foreign dividend	1,000	Gross Foreign dividend	1,000
Foreign tax withheld	<u>(250)</u>	Disallowed FTC*	<u>(100)</u>
Net amount rec'd	750	Taxable dividend	900
Maximum FTC*	150	Tax payable @ say 29%	261
Disallowed FTC* can be deducted	<u>100</u>	Less: Allowed FTC*	<u>(150)</u>
Withheld foreign tax	250	<b>Taxes Payable</b>	<b><u>111</u></b>

- ii. **For foreign business income**, there is **no direct limitation on the use of the amounts payable or withheld** as a foreign tax credit. As the **carry forward of unused foreign tax credits is allowed**, therefore, there is **no deduction for any part of the foreign taxes withheld and not utilized**.

If above example was foreign business income: Gross amount 1,000 x 29% = 290  
Less: FTC\* 250  
Tax payable 40

**\*NOTE: the FTC is not necessarily the foreign tax withheld or paid, but rather, the FTC is the lesser amount of a complicated formula that will be covered in Acco 440.** See below

Described below for general knowledge purposes:

- For **Foreign Non-Business Income**, the credit, under ITA 126(1) is the lesser of:
  - 1) Tax paid to foreign government (for individuals **limited to 15% of foreign non-business income**)
  - 2)  $\frac{\text{Foreign non-business income}}{\text{Adjusted net income}} \times \text{Taxes otherwise Payable}$

**Adjusted net income = Division B Net Income reduced by :**

- net capital losses carry overs deducted under ITA 111(1)(b)
- any lifetime capital gains deduction taken
- any amounts deductible for stock options under ITA 110(1)(d) and (d.1)
- any amounts deductible by ITA 110(1) (f) for workers compensation, social assistance or exempt foreign income
- any amount deductible for a home relocation loan-ITA 110(1)(j)

**Taxes otherwise payable consists of - Part I tax payable before the deduction of:**

- dividend tax credit
- employment outside of Canada tax credit
- political contribution tax credit
- investment tax credit
- labor sponsored funds tax credit

**Note: Excess foreign non-business tax that is not allowed as a FTC, cannot be carried over forward but can be deductible in respects to computing net income for tax purposes (ie, Division B income)**

- For **Foreign Business Income**, the credit, under ITA 126(2) is the lesser of:
  - 1) actual tax paid (not limited to 15%)
  - 2)  $\frac{\text{Foreign business income}}{\text{Adjusted net income}} \times \text{Taxes otherwise payable}$
  - 3)  $\text{Taxes otherwise payable, less any foreign tax credit taken on non-business income under ITA 126(1).}$

**Note: Excess business foreign tax not allowed as a FTC is not deductible but the FTC can be carried back 3 years and forward 10 not 20 years as a FTC**