THE DISABILITY TAX CREDIT PROGRAM

A review of the literature and key informant interviews

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Executive Summary

The Disability Tax Credit (DTC) is an integral part of Canadian income benefits for persons with disabilities that is intended to address the income insecurity and poverty often associated with having a disability. This study reviews and critiques the DTC program and other disability benefits available to persons with disabilities in Canada through the tax system, and then provides recommendations for the way forward based on evidence from an extensive literature review and key informant interviews of stakeholders from across Canada. The research question guiding this work is, "How do persons with disabilities in Canada access the DTC and what is the impact of the DTC on their experiences?"

Persons with disabilities in Canada face disproportionate rates of poverty and income insecurity compared to those without disabilities. This poverty and income insecurity are caused by a multitude of factors, including the additional costs associated with living with a disability and the stigma and exclusion often faced by persons with disabilities in the labour market and other aspects of society. As a result, persons with disabilities in Canada have lower incomes and reduced employment opportunities compared to their non-disabled counterparts.

Efforts have been made to address this poverty and income insecurity by providing access to financial and other supports. Canadian governments use a mix of income support programs, personal supports and tax credits to alleviate the financial pressures experienced by persons with disabilities. These include income supports based on need, such as provincial disability income support programs, and those based on contributions, such as the Canada Pension Plan–Disability (CPP-D).

The DTC system provides a range of benefits for eligible persons with disabilities. The DTC itself provides a non-refundable tax credit intended to reduce the income tax burden of eligible persons with disabilities to cover some portion of the extra cost of living with a disability. However, only those with positive taxable earnings from employment or other sources receive a direct benefit from the tax credit. DTC eligibility is also a gateway for other benefits, including the Registered Disability Savings Plan (RDSP), the Working Income Tax Benefit (Canada Workers Benefit or CWB), and the Child Disability Credit (CDC). Additionally, the DTC is sometimes used as a determination of disability for other disability benefits, such as the one-time payment to persons with disabilities during the COVID-19 pandemic. These other benefits are often more financially significant than the tax credit itself, especially for persons with disabilities living in poverty, and with no or low taxable income. Given this gateway aspect of DTC eligibility, there are concerns about the eligibility criteria and the complexity of the application form and process, which can create barriers to accessing financial supports for many persons with disabilities.

A key concern is that only a fraction of the almost two million persons living with disabilities in Canada use the DTC. This may be because the rules used to assess eligibility are too restrictive. In particular, the eligibility criteria do not fit well with mental illness and other chronic or episodic conditions[1] that can give rise to intermittent and unpredictable experiences of impairment and disability over time. Recent evidence suggests that most persons with disabilities in Canada experience some form of

[1] Episodic conditions/disabilities are conditions where individuals experience a fluctuating course of disability and wellness, often presenting in unpredictable ways (Alini, 2020).

episodic disability, making review of the criteria for DTC eligibility a pressing issue for persons with disabilities in Canada (Eggleton et al., 2018).

Knowledge about the DTC and its benefits is also limited across the public in Canada. A report from the School of Public Policy at the University of Calgary notes that low awareness of the DTC and limited knowledge of its potential benefits beyond reducing federal tax burden further contribute to low participation rates (Dunn & Zwicker, 2018).

Summary of Findings and Recommendations

Our findings highlight several challenges with the DTC including complexity of the application form and process, limitations in who benefits from the DTC, restrictive eligibility criteria, challenges with the definition of disability used for eligibility, and limited value of the non-refundable nature of the DTC due to low earnings of many persons with disabilities. Given these challenges, our recommendations for the way forward are as follows.

Recommendation 1 – Make the DTC application more accessible

This involves improving accessibility features of the application form and standardizing or eliminating fees attached to applying for the DTC. Making the DTC more accessible also involves revisiting the steps needed to complete an application and simplifying the process where possible. It involves educating medical professionals about the DTC and how to complete the form, improving the accessibility features of the application itself, reducing the steps needed to apply for the DTC, and improving DTC continuity once eligibility has been determined.

Recommendation 2 - Coordinate the DTC with other disability credits and benefits

Access to the DTC should be coordinated with other provincial and federal benefits. This is critical since no one program offers a full complement of benefits and services. There is a need to coordinate how disability credits and benefits are accessed to ensure that persons with disabilities across Canada can get the full complement of supports they need regardless of age, disability type and employment status. This requires careful consideration of different scenarios of need across Canada by age, gender, and other key factors related to a person's lived experience.

Recommendation 3 – Provide seamless access to disability benefits available in Canada

The DTC as a pathway to accessing other benefits should be opened up to allow other pathways to their access. This is especially critical given the low uptake of the DTC. There is a need to ensure that there are other pathways to being deemed a "person with a disability" who is eligible for these other benefits. Specifically, once someone is deemed a person with a disability by a government program in Canada, whether it is a provincial or federal program, they should be able to seamlessly access other disability benefits and programs at any level of government.

Recommendation 4 – Position the DTC within Canada's poverty reduction strategy

In establishing Canada's poverty reduction strategy moving forward, the federal government should consider how, if at all, the DTC can be used as a tool to alleviate poverty and income insecurity. Given the added costs associated with living with a disability (e.g. therapy, equipment, transportation), together with reduced career opportunities and earning potential, persons with disabilities in Canada experience higher rates of poverty and income insecurity. Such experiences are especially prevalent when disability intersects with other forms of oppression due to, for example, race, gender, pre-existing poverty, and lower educational attainment. If Canada is to be successful in its efforts to reduce poverty, a coordinated effort needs to be made to address the challenges that persons with disabilities experience.

Recommendation 5 – Change the DTC back to a refundable tax credit

Changing the DTC back to a refundable tax credit would allow more persons with disabilities in Canada to benefit from the credit. As it currently stands, there is only a small group of persons with disabilities who benefit from the DTC. That is, individuals who: 1) meet the disability eligibility requirements, 2) earn sufficient income to make use of the deduction, 3) avail themselves of any other secondary benefits, and 4) have sufficient means to invest in an RDSP. If the intent of the DTC is to address the added cost of living with disability among all persons with disabilities, the non-refundable form is substantially inadequate.

Recommendation 6 – Amend DTC eligibility so all lived experiences of persons with disabilities are treated equitably

The current eligibility criteria for the DTC results from piecemeal changes to the eligibility criteria and their implementations, and as they stand, the criteria do not convey a reasonable measure of disability. The eligibility criteria for the DTC should be revamped through consultation with persons living with a disability to ensure that the criteria reflect their lived experiences.[2] If the DTC is meant to address the added cost of living with a disability in Canada, a focus on these additional costs should guide the eligibility criteria. Revision to the definition of disability would see eliminating terms such as "marked restriction" and the 90% Rule, in favour of less restrictive disability constructs that are consistent with the experiences of persons with disabilities in Canada.

Recommendation 7 – Promote education and awareness of the DTC

Persons with disabilities and their supporters must have the information they need to make informed decisions about their options and take steps to access various disability programs that could meet their needs. Education and awareness campaigns must consist of multiple pathways, including social media, websites, brochures and advertisements. It must include educating doctors and other medical professionals about the DTC and how to complete the DTC application. A broad information campaign with widely available resources to assist with navigation of the various supports and benefits could increase the uptake of the DTC.

[2] Consultation must include voices of person across varying types, levels, and intersections of disability.

Conclusion

The report highlights that while the DTC could be used as a tool to address poverty and income insecurity in Canada, it currently is not succeeding in meeting these objectives. Its eligibility criteria are too limited, the application form and process are inaccessible, and its gateway function is overly restrictive and prevents persons with disabilities from accessing other benefits offered through DTC eligibility. In light of the high rates of poverty among persons with disabilities in Canada, these issues need to be addressed. A comprehensive review of the DTC eligibility and application form and process is urgently needed, as well as a review of how the DTC program interacts with other federal income and personal support benefits programs.

Chapter 1 – Introduction to the Disability Tax Credit Program

In this chapter we provide an overview of the role of the Canadian Disability Tax Credit (DTC) program and Registered Disability Savings Plan (RDSP) with consideration of the context of today's taxation landscape as it relates to persons with disabilities. We address taxation from an individual perspective. Specifically, we consider personal income tax benefits that would be available to an average person in Canada if they receive income from sources such as wages and salary. Individuals access tax credits and benefits by filing their income taxes on a yearly basis.

We review the various tax credits available to individuals with disabilities when filing personal income.[3] We begin with a description of the differences between "refundable" and "non-refundable" credits. We then discuss a series of related documentation that a person uses to gain recognition from the federal tax system that they are disabled, namely, the Disability Tax Credit Certificate (T2201) and the Disability Related Information (RC4046). We then review other benefits that are associated with the DTC. One of the key benefits within the list of DTC associated benefits is the RDSP. We outline how the RDSP is described and its eligibility requirements.

Tax Credits

The tax credit system is a feature within income tax systems that can affect the income taxes owed by an individual. Broadly speaking, there are two types of tax credits --

[3] We use the term "personal income tax" because businesses and corporations file income taxes differently than people. For our examples, the assumptions are that a person earns income from employment (salary or wages) and pays taxes on that income.

refundable and non-refundable. Refundable credits are not based on discounts or taxes owing in any given year. Rather, **a refundable tax credit is a government transfer program that pays cash to eligible recipients regardless of earnings**. **A non-refundable tax credit is a discount on the portion of the taxes owed on a person's income**.

The DTC is a non-refundable tax credit. The highest discount available under the DTC for people who earn enough money to have a sufficient tax burden to fully benefit from the credit is approximately $1500. It is important to note that historically the DTC was not always configured as a non-refundable credit. The DTC changed from a refundable credit to a non-refundable credit in 1988 (Longfield & Bennett, 2002). Textbox 1 offers an example of how a refundable versus a non-refundable tax credit works for persons with and without taxable income.

Textbox 1 – Refundable versus Non-Refundable Tax Credits

Refundable Tax Credit

Someone with no taxable earnings would receive the full amount of a refundable credit when filing their income taxes.

Person A (DTC certificate holder): $0 in taxable income pays $0 in income taxes but receives $1,500 when filing, where $1,500 is equal to the amount of a refundable credit.

Person B (DTC certificate holder): $50,000 in taxable income with $7,500 in taxes payable could reduce the amount of taxes owing by the amount of the credit. If the credit was $1,500, the taxes payable would be reduced to $6,000.

Non-Refundable Tax Credit

A non-refundable credit works differently. A person with no taxable income who is eligible for a non-refundable credit would receive no money upon filing.

Person A (DTC certificate holder): $0 in taxable income pays $0 in income taxes and receives $0 when filing. Regardless of the size of a non-refundable credit, person A receives no money upon filing because they have no taxable income.

Person B (DTC certificate holder): $50,000 in taxable income with $7,500 in taxes payable could reduce the amount of taxes owing by the amount of the credit. If the credit was $1,500, the taxes payable would be reduced to $6,000.

In summary, a person must have taxable earnings to get a direct benefit from a non-refundable tax credit like the DTC.

The design of these examples is deliberately stylized to illustrate who would receive a refundable versus a non-refundable tax credit. The Canadian income tax system, and the DTC in particular, is comprised of a highly complex system that determines the amount of income tax a person pays at the provincial and federal levels. Each province/territory has its disability tax credit rates combined with the Federal DTC that adjusts the taxes payable for each DTC certificate holder.

T2201 Disability Tax Credit Certificate

Qualifying for the DTC involves completing the T2201 application form and obtaining CRA approval. The form is a medical questionnaire that qualified medical practitioners must complete. Once completed, the form is submitted to the CRA for review and assessment. The amount of time it takes to assess qualification varies by individual. We discuss issues with the assessment process in Chapter 2 and 3. Chapter 2 outlines some of the numerous changes that have taken place with the T2201 (or DTC certificate). What we outline here is the most recent version of the T2201 (Appendix A), which was influenced by Bill C-19 and introduced various income tax changes from Federal Budgets between 2021 to 2022 (Thorton, 2022). An understanding of the full impact of changes made to the T2201 will likely take time and is not yet available.

The T2201 contains two parts: Part A – Individual's section, and Part B – Medical practitioners' section. Part A is two pages long and asks about basic demographic information on the person with a disability or the person claiming the "disability amount." If the credit is not being used by the person with a disability the disability amount can be transferred to certain other individuals, such as a family member, associated with the person. The T2201 gives examples of who can claim the credit which include supporting family members:

> The spouse or common-law partner of the person with the disability, or a parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, or niece of that person or their spouse or common-law partner (see Appendix A).

Part B begins with notes concerning the individual's eligibility and the steps required to complete the form. The "Important notes on patient eligibility" provides two short paragraphs that are crucial to understanding some of the problems with the DTC and related benefits.

> Eligibility for the DTC is not based solely on the presence of a medical condition. It is based on the impairment resulting from a condition and the effects of that impairment on the patient. Eligibility, however, is not based on the patient's ability to work, to do housekeeping activities, or to engage in recreational activities.
>
> A person may be eligible for the DTC if they have a severe and prolonged impairment in physical or mental functions resulting in a marked restriction. A marked restriction means that, even with appropriate therapy, devices, and medication, they are unable or take an inordinate amount of time in one impairment category, **all or substantially all of the time** (generally interpreted as 90% or more) (see Appendix A).

These two paragraphs contain the essence of what has been twenty years of debate on DTC eligibility and which we outline in Chapter 2. Goodale and McCallum (2004) and Eggleton et al. (2018) address the first paragraph’s exclusion of “work.” The absence of information on why work was excluded is significant because many people who apply for the DTC describe their impairments in relation to their employment and have difficulties omitting such a huge component of their lives (MS Canada, 2018). For individuals with episodic disabilities, the exclusion of work is particularly challenging. As specifically noted in the most recent Senate committee report:

> The current criteria for the DTC does not capture the reality of those living with unpredictable, episodic experiences of disability, even though they face the same higher costs of living, economic challenges and income insecurity (Eggleton et al., 2018, p.11).

The second paragraph of the eligibility criteria of the T2201 contains a very important entry. The words “marked restriction” which is derived from the Canadian Income Tax Act (CITA). All three of the government committees that we cover in Chapter 2 discuss the meaning of marked restriction. The significance of issues concerning the marked restriction definition are covered extensively throughout this report, including as it relates to individuals with episodic conditions not qualifying for the DTC if they do not experience disability 90% of the time.

Aside from the eligibility criteria, the main component of Part B is the medical questionnaire that asks about the Basic Activities of Daily Living (BADLs), which includes vision, speaking, hearing, walking, eliminating, feeding, dressing, and mental functions necessary for everyday life, and cumulative effects of significant limitations. The questionnaire serves as a measure of functional impairment that attempts to determine the degree to which a person's medical condition affects their everyday lives. The language within the DTC certificate resembles descriptions of functional impairment as conceptualized by World Health Organization (WHO), in the International Classification of Functioning, Disability and Health (ICF). The WHO calls limitations or restrictions a functional impairment, which refers to:

> Limitations due to the illness, as people with a disease may not carry out certain functions in their daily lives. We operationally equate the "functional impairment" concept with "disability" in the WHO's International Classification of Functioning, Disability and Health (ICF) (Üstün & Kennedy, 2009, p. 82).

While resembling materials from the ICF, the questionnaire used in the T2201 is unique in its construction of disability. Specifically, the language of marked restriction and its interpretation of 90% of the time differs from any other interpretation of "severe disability" (Conti-Becker et al., 2007).

RC4064 "Tax measures for persons with disabilities: Disability-Related Information"

The disability certification process for government programs is complicated. The T2201 is a lengthy form that can be difficult to interpret and complete (Goffin, P., 2017), though there have been efforts to streamline the form and process. For persons in Canada seeking to make claims on their tax returns for disability benefits, the CRA publishes the RC4064 *Tax Measures for persons with disabilities: Disability-Related Information* (Appendix B). This 28-page document provides additional information about the CRA's interpretation of disability. The RC4046 is a document designed to assist individuals when filing their income taxes and attempts to help individuals navigate tax measures related to disability.

The RC4046 divides information into refundable and non-refundable credit information. Pages four through 16 are dedicated to the DTC, and page 24 contains a brief entry concerning the RDSP (see Appendix B). This document also outlines what takes place after a form is submitted if the application is approved or denied. If an application is rejected, the RC4046 states that:

> If you disagree with our decision, you can write to your tax centre and ask them to review your application. You must include any relevant medical information that you have not already sent, such as medical reports or a letter from a medical practitioner who is familiar with your situation. This information should describe how impairment affects activities of daily living. You can also formally object to our decision. The time limit for filing an objection is no later than 90 days after we mail the notice of determination (see Appendix B*).*

This paragraph alludes to the appeals process that allows individuals to dispute the decision that CRA renders when one applies for the DTC. We outline the concerns that have arisen from this process in Chapter 2.

We include discussion of the RC4046 document in our analysis of the DTC because it contains information on eligibility for the DTC and represents the most comprehensive information published by the CRA that is designed for public consumption. Having said that, the RC4064 can be criticized for the relatively thin representation of the eligibility criteria. First, with the minor exception of life-sustaining therapy, the RC4064 refers to BADLs when discussing eligibility criteria. Additional information about the BADLs is absent from the document. For example, what is meant by “mental functions for everyday life” can only be found in the brief description of the T2201 and within the questions themselves. Ambiguities surrounding BADLs and eligibility criteria have ended up in tax court on several occasions (Goffin, 2017; Golumbek, 2017; Golumbek, 2021).

Other Federal Tax Benefits and Credits for Persons with Disabilities in Canada

The DTC is largely considered a gateway benefit, allowing recipients to access other tax benefits and deductions. In fact, among the key informants, several highlighted that the value of the DTC is in how it interacts with other disability benefits in Canada. This section covers other disability-related tax measures and benefits that persons with disabilities in Canada can access. These credits and deductions exist both in addition to and alongside each other but with differing levels of uptake, availability, and eligibility. We outline both benefits that use the DTC T2201 eligibility as a gateway and benefits that do not rely on a completed T2201.

Family Caregiver Benefit

The Family Caregiver Benefit (FCB) is part of a Canadian federal program called Employment Insurance (EI). Generally speaking, EI is a wage replacement available to a person who has worked in paid-employment and has contributed to the program and for some reason becomes unemployed. For our purposes, we are examining a small underlying program, the FCB. The FCB compensates caregivers who must forfeit labour-market earnings to care for someone who is disabled or otherwise unable to care for themselves (Government of Canada, 2023b). Eligibility for the FCB does not require being eligible for the DTC. This program uses medical documentation called a "Medical Certificate" that provides medical evidence to support the claim that a named individual requires caregiving support.

Child Disability Benefit

The Child Disability Benefit (CDB) is "a tax-free monthly benefit received by families who care for a child under age 18 with a severe and prolonged impairment in physical or mental functions" (Government of Canada, n.p. 2023a). The maximum amount for the CDB is $2,985 annually ($248.75/month). Like most programs designed to assist persons with disabilities in Canada, benefits from the CDB are subject to an income test where higher incomes see a reduced benefit. Households must possess a valid T2201 for the child with a disability and be approved for the FCB to qualify.

Canadian Workers Benefit Disability Supplement

The Government of Canada's website describes the Canadian Workers Benefit (CWB) as "a refundable tax credit to help individuals and families working and earning a low income." There are two basic parts of the CWB – the basic amount, and the disability supplement (Figure 3). The CWB disability supplement requires a household member has a valid T2201.

Figure 1 – Income cut-off levels for the CWB

Adjusted family net income limits for the basic CWB and the CWB disability supplement

Your family status	Basic CWB	CWB disability supplement	
		You are eligible for the DTC	You **and** your **eligible spouse** are eligible for the DTC
You did **not** have an **eligible spouse** or an **eligible dependant**	$33,015	$37,932	not applicable
You had an **eligible spouse** or an **eligible dependant**	$43,212	$48,124	$53,037

The CWB disability supplement also requires income testing, where approximately $50,000 is the maximum income that a household can earn to receive the benefit.

Registered Disability Savings Plan

We conclude this chapter with the RDSP, which is a way to invest money for a person who qualifies for the DTC. We focus on the RDSP more than any other disability-related benefit because, like the DTC, the Government of Canada has conducted formal inquiries into eligibility issues with the program. This section outlines some of the basic information associated with the RDSP.

The RDSP has two main features that encourage eligible participants to invest in the long-term financial security of DTC holders -- the Canada Disability Savings Grant (the grant) and the Canada Disability Savings Bond (the bond). The allocation of grants and bonds is determined by an income test, where lower-income households receive more money than households with higher incomes. For the 2023 tax year, the cutoff point between higher and lower incomes is approximately $100,000.

Annually, the CRA publishes a document called “Registered Disability Savings Plan” that, like other CRA documents, is given an additional letter and number designation “RC4460” (Appendix C) The RC4460 states:

> A Registered Disability Savings Plan (RDSP) is a savings plan intended to help parents and others save for the long-term financial security of a person who is eligible for the Disability Tax Credit (DTC) (see Appendix C).

The RC4460 provides information on how the RDSP works. One important component is how the grants function in relation to a person’s income. Grants amounts are determined via a ratio of either 3:1, 2:1, or 1:1. The most generous ratio (3:1) occurs with the first $500 deposited to an RDSP, resulting in a $1500 government grant.

Bond System

The Canada disability savings bond is attached to an RDSP but does not require any deposits from the account holder. The bond system is designed to aid low-income persons in Canada. Individuals who qualify for the full value of the bond closely aligns with the income levels of the CWB (above) or about $33,000 in income per year in 2023. For incomes between $33,000 - $50,000 the value of the bond tapers off. Additional details concerning the grant and bond protocols can be found in the RC4460. The bond and grant system of the RDSP resembles another savings vehicle available to person Canada called the Registered Education Savings Plan (RESP).

The RDSP is quite restrictive when it comes to drawing funds from the plan (Eggleton et al., 2018). The RDSP has a complex series of payment structures, including disability assistance payments and lifetime disability assistance payments. A series of formulas govern these payments and aim to shape the proceeds of an RDSP into an income stream after the beneficiary turns 60 years of age (Appendix C). The complexity and associated issues with disability assistance payments (DAPs) are addressed in Chapter 2 of this report.

Summary of Chapter 1

In this chapter we provided an overview of the role and significance of the DTC and the RDSP for people across Canada, particularly in the context of taxation for persons with disabilities. We explored the differences between refundable and non-refundable tax credits, with the DTC highlighted as a non-refundable credit. This chapter also delved into the necessary documentation for disability recognition by the government, such as the T2201 Disability Tax Credit Certificate and the RC4064 Disability-Related Information.

We highlighted the significance of the RDSP, a savings plan designed to aid the financial security of those eligible for the DTC. This program features government grants and bonds based on applicant's' income levels. Other benefits discussed include the FCB, the CDB, and the CWB Disability Supplement, each with specific eligibility criteria and implications for persons with disabilities in Canada.

Overall, the chapter serves as an introductory guide to the administrative processes and benefits eligibility for persons with disabilities in Canada, setting the stage for further exploration of the intersection between disability and the Canadian tax system in subsequent chapters.

Chapter 2 – A Brief History of DTC and RDSP Reviews

In this chapter we survey various committee works, position papers, media reports and academic papers from the last two decades that have reviewed or commented on the DTC and RDSP. Our investigation reveals a pattern of similar recommendations that go all the way back to 2002 without substantial governmental response or meaningful changes to the DTC. Additionally, we highlight a pattern of discounting or ignoring the work of previous committees that has resulted in in a lack of continuity in addressing DTC and RDSP challenges that have been identified over time.

There are four key reports that we draw on in this survey. The first report *Getting It Right for Canadians: The Disability Tax Credit* (Getting It Right) from 2002 sets an interesting bench for inquiry into the DTC. Getting It Right outlines problems relating to an inaccessible application form and process, problematic eligibility criteria, and a need for a public education strategy about the DTC program. Of particular note in the series of reports reviewed in this chapter is the fact that only Getting It Right spurred any official government response. What unfolds over the next 16 years, however, reinforces the challenges of the DTC noted in this report.

The second major report on the DTC program is found within the *Disability Tax Fairness Report of the Technical Advisory Committee on Tax Measures for Persons with Disabilities* (Disability Tax Fairness) from 2004. This report examines broader support areas for persons with disabilities in Canada and includes a dedicated chapter on the DTC. Although there are some mentions to the recommendations of the earlier report, Getting It Right, within Disability Tax Fairness, it does not make a direct connection.

A third report, *A New Beginning: The Report of the Minister of Finance's Expert Panel on Financial Security for Children with Severe Disabilities* (A New Beginning) from 2006, introduces the RDSP. In this report, the committee elects to make the eligibility of the RDSP reliant on the DTC without examining any of the concerns from Getting It Right and Disability Tax Fairness.

The fourth and most recent report, *Breaking Down Barriers: A Critical Analysis of the Disability Tax Credit and the Registered Disability Savings Plan* (Breaking Down Barriers) from 2018, calls for immediate changes to both the DTC and the RDSP. Unfortunately, Breaking Down Barriers makes no reference to the previous reports. As outlined in Appendix D, many of the recommendations from Breaking Down Barriers are the same as the first report, Getting It Right, that came 16 years earlier.

Getting It Right for Canadians: The Disability Tax Credit (2002)

Part of the motivation for Getting It Right originated from 2001 when the CRA conducted an internal review of current DTC holders to reassess eligibility. This internal review led to 100,000 people having to reconfirm their eligibility. This action was particularly challenging for those with permanent or worsening conditions and was criticized for its insensitivity, with the report calling the approach "insulting, hurtful, and disgraceful" (Longfield & Bennett, 2002, p. 4). The public backlash prompted the formation of a technical committee that drafted Getting It Right.

The committee's investigation uncovers and highlights a number of problems with the DTC, including the CRA's contentious interpretation of the term "markedly restricted.” The term “markedly restricted” is derived from paragraph 118.4(1)(b) of the CITA which states:

> An individual’s ability to perform a basic activity of daily living is markedly restricted only where all or substantially all of the time, even with therapy and the use of appropriate devices and medication, the individual is blind or is unable (or requires an inordinate amount of time) to perform a basic activity of daily living (Income Tax Act, RSC 1985, c 1 (5th Supp)).

This entry in the Income Tax Act is problematic because “all or substantially all of the time” is *interpreted* as 90% of the time. Getting It Right refers to the markedly restricted definition and interpretation as the “90% Rule” (Longfield & Bennett, 2002, p. 10). The reasoning behind the interpretation of the markedly restricted definition was:

> “All or substantially all” is a common expression used in the Income Tax Act and the jurisprudence associated with this expression interprets this as 90%. While this may be the case, it must be remembered that the application of this term in the context of the DTC is quite different from its usual business application (Longfield & Bennett, 2002, p. 9)

The inability to separate the use of markedly restricted as applied elsewhere in the Act from its use for the DTC represents the greatest barrier to DTC reform over the next two decades. Within the report's recommendations, the fourth recommendation calls for the definition to be redefined to “reflect the reality of living with a disability” (Longfield & Bennett, 2002, p. 30).

Getting It Right does not just address the problems of the 90% Rule, though it presents 16 recommendations that are found in later investigations of the DTC. Recommendations range from a call to redesign the T2201 (DTC application) to better address mental illness (recommendation 6), the costs associated with applying (recommendation 8), streamlining the recertification process, and education strategies (recommendation 10). After the committee presented its report and recommendations to the House of Commons, the Government quickly delivered an official response which is described below.

Government of Canada's Response to the Seventh Report of the Standing Committee on Human Resources Development and the Status of Persons with Disabilities Getting It Right for Canadians: The Disability Tax Credit (2002)

The Government's Response document was not the result of any committee work. Instead, it originated from the Department of Finance and Finance Minister John Manley in August 2002. The government attempts to handle the backlash created from the CRA's application of the 90% Rule by arguing the revocation of individual DTCs "is not to suggest that these individuals do not have impairments, but rather that the effects of their impairments do not meet the *legislated requirements* for the DTC" (emphasis added, Manley, 2002, p. 8). We highlight the choice of words in the response document because it is inaccurate. The interpretation that the CRA applies in the case of the 90% Rule is not a legislated requirement, but rather a policy decision made at the bureaucratic level (Dunn & Zwicker, 2018; Eggleton et al., 2018).

> The Government's Response suggests agreement that the DTC requires a revaluation and that the Department of Finance would initiate an evaluation of the DTC as soon as new data from the 2001 Participation and Activity Limitations Survey (PALS) becomes available in the spring of 2003, to ensure that the DTC achieves its stated policy purpose (Manley, 2002, p.6).

Doubt was cast on the importance of this re-evaluation when, less than one month after the response document was published, the Minister of Finance made a legislative change which effectively overruled a ruling in the Canadian Tax Court's decision on the criteria used for the DTC (Drache, 2002). The case involved an individual with celiac disease and issues with preparing food. The argument was that procuring safe food constitutes an aspect of "feeding oneself" within the basic activities of daily living. Here, the view was that challenges associated with procuring food take an "inordinate amount of time," which is in line with the eligibility requirements of the DTC. A hasty amendment to the CITA nullified the judge's decision to overturn the ruling of the CRA. A government press release notes:

> The … amendment ensures that individuals would not be eligible for the DTC merely on the basis of a dietary restriction that results in an extraordinary amount of time being spent on choosing, shopping for, preparing or cooking food. Specifically, it proposes that the expression 'feeding oneself' be defined for DTC purposes to mean the act of putting food in the mouth or swallowing that food. Subsection 118.4(1) is amended to define the terms' feeding oneself' and 'dressing oneself.' (Drache, 2002, p. 2).

This decision to amend the Income Tax Act, which combines two criteria for assessing eligibility, starkly contrasts with the Government's assertion in the response document. In the Government's Response document there is assertion that evaluation of the DTC requires more investigation in conjunction with the 2001 Participation and Activity Limitations Survey (PALS) results, which was only published a year later. This contradiction between the response document and the changes to the CITA is only addressed in the Disability Advisory Council's first report nearly twenty years later (2019), which asks for in-depth consultations on any changes to the Income Tax Act concerning disability.

Disability Tax Fairness: Report of the Technical Advisory Committee on Tax Measure for Persons with Disabilities (2004)

Disability Tax Fairness is the second of the three committee reports on the DTC. Disability Tax Fairness continues the work of Getting It Right, drawing on newly acquired data from the 2001 PALS to analyze the DTC since the CRA audit. Unlike Getting It Right, Disability Tax Fairness grapples with other areas of support for persons with disabilities in Canada. Of the five chapters within the document, Chapter 2 is dedicated solely to the DTC.

Disability Tax Fairness more explicitly emphasizes the hidden costs associated with disability than previous reports. Information from the 2001 PALS is used to highlight how a "sizable majority (approximately 40 percent)" of persons with disabilities in Canada cannot afford assistive aids and devices (Goodale & McCallum, 2004, p. 18). It describes intangible disadvantages that persons with disabilities commonly face, like opportunity loss and diminished capacity to earn an income. However, the report does not investigate these costs in detail, but rather simply emphasizes them within a discussion of "non-itemizable" costs of disability, which are "not easily measured or quantified" (p. 20).

The report's "concerns" section recounts many of the issues discussed in Getting It Right, drawing on various testimonials as evidence to emphasize the challenges of the interpretation of "markedly restricted" terminology. The report collects testimonials from community organizations about the problems of a person with schizophrenia qualifying for the DTC. Additional testimony and details highlight the problems of episodic disabilities that do not readily fit into interpretations of the 90% Rule. The committee argues that:

> While we recognize that this 90% interpretation may work well for other tax measures that use the phrase 'all or substantially all,' there is a question as to whether this interpretation lends itself well to the disability tax credit, where eligibility needs to be determined in light of individual circumstances (2004, p. 37).

The report's final handling of the 90% Rule is ultimately softened in recommendation 2.3, where it states that:

> The Canada Revenue Agency state in its explanatory materials and on the application form for the disability tax credit that some impairments in function can result in a marked restriction in a basic activity of daily living, even though these impairments may have signs and symptoms that may be intermittent.
>
> This action is not intended to alter the legislative requirement that a marked restriction in a basic activity of daily living be present 'all or substantially all of the time.'

It is unclear why the committee's language changes from the body of text to the recommendations. What is clear is that the interpretation of "markedly restricted" persists.

Disability Tax Fairness marks the beginning of repeated recommendations that are not acted upon by the federal government. Recommendations 2.2, 2.3, and 2.4 from this report are very similar to 4a, 4b, 4c, and 6 in Getting It Right. These recommendations call for more equitable treatment of different disabilities. For example, Getting It Right lists recommendation 4 (b) as:

> Redefine "prolonged" in order to capture individuals who have an impairment that is substantial and recurrent, although not necessarily lasting for a period of 12 continuous months; (Longfield & Bennett, 2002, p. 30).

Recommendation 2.3 in Disability Tax Fairness notes:

> The Canada Revenue Agency state in its explanatory materials and on the application form for the disability tax credit that some impairments in function can result in a marked restriction in a basic activity of daily living, even though these

> impairments may have signs and symptoms that may be intermittent (Goodale & McCallum, 2004, p.122).

The concern about eligibility challenges for persons with episodic disabilities is also noted in the Breaking Down Barriers, a report from 2018 that is discussed later in this chapter.

A New Beginning: The Report of the Minister of Finance's Expert Panel (2006)

A New Beginning covers the deliberations of the committee that helped launch the RDSP in 2008. What is important to understand is how the panel reasons the eligibility for the RDSP. While much of the expert panel's deliberations are highly technical, there are a few important issues relevant to the DTC program. First, how the panel determined eligibility for the RDSP and second, the plan to address inflation. One of the key issues with the RDSP is its connection to the DTC.

The expert panel states that A New Beginning serves as "an important first step in addressing the income security concerns for the future of persons with disabilities in Canada and their families" (p. 2). The report highlights the financial insecurity that persons with disabilities face throughout their lifetime. In this discussion, statistics from the 2001 PALS are drawn on to elaborate on the issues. Interestingly, the panel highlights one of the paradoxes of disability and taxation:

> *In order to claim a Disability Tax Credit a person with a disability or a supporting individual must have sufficient income to be taxable. For many in the disabilities community this will not be the case. How many additional Canadians have a disability serious enough that they would qualify for the Disability Tax Credit is not known (p. 5).*

The panel emphasized two issues. One is that the RDSP should be easily integrated into existing registered savings and income plan financial architecture (Barton Love et al., 2006). In other words, they wanted to ensure that the RDSP functions similarly to retirement and education savings plans. The second issue is that the CRA must administer the plan because of the shared taxation properties found within its design (Barton Love et al., 2006). The panel ultimately decided on the architecture of the Registered Plan regime and, given the fact that the CRA administers the DTC, that the RDSP must be linked to the DTC to function.

A key concern about the RDSP is that its design relies on persons with disabilities having increased savings over time. In other words, the panel designed the plan with the expectation that participants in the plan would have to save more each year to keep up with inflation.[4] Discussions about increased savings within the report are found within a complex table (Appendix E) that relies on a financial instrument called an annuity.[5] To explain how the RDSP functions, the report uses examples of savings patterns that tend to be successful. The table outlines different savings levels and their various outcomes where the more one saves, the larger the amount one would have at a later date. At the bottom of the table is the list of assumptions, a key one being “Annual contributions made over the 20-year savings period are assumed to grow

[4] While stories of inflation are ubiquitous in 2024, this may not have been the case in 2006. “Inflation” is a rise in prices of goods and services that typically takes place year after year. What it also means is a decrease in purchasing power of money.

[5] Annuities are financial instruments that are designed to provide guaranteed regular/periodic income. Annuities offer a blend of security, predictability, and potential growth tailored to support long-term financial stability. In exchange for a lump sum investment, an annuity provides a steady stream of guaranteed income payments for a designated period of time (Sinclair, S, 2023). The funds underlying annuities tend to be conservatively invested and rely on complex mathematical formulas to provide such a guarantee. One of the most common annuity types is called a pension.

at 3% per year from their initial levels” (2006, p. 25). Three percent is a typical percentage that financial professionals use to show that savings must keep pace with inflation. It is also sometimes framed as the “return on investment” of a safe investment such as government bonds. Another term that is commonly used is “indexing” or “indexed at 3%.”[6] Oddly, when the RDSP was launched in 2008 the grant and bond rates were set at a lifetime deposit amount of $200,000. Sixteen years later, these limits remain unchanged.

Noteworthy too is that in the report the panel cites concerns noted in Disability Tax Fairness about the definition of disability and how they “wrestled with the issue” (p. 29). However, what the report does not mention is the extensive problems with the DTC that Disability Tax Fairness highlighted. It is also unclear why the report completely omits the yet unresolved issues noted in Getting It Right.

Breaking Down Barriers: A critical analysis of the Disability Tax Credit and the Registered Disability Savings Plan (2018)

Breaking Down Barriers is a Senate Committee report from 2018 that investigates the effectiveness of the Disability Tax Credit (DTC) and the Registered Disability Savings Plan (RDSP). Like 2002’s Getting it Right, the inquiry and subsequent report were triggered in response to internal CRA policy changes that affected the eligibility criteria of the DTC (Eggleton et al., 2018). In effect, some Canadians who held a valid DTC certificate were told that they were no longer eligible and that if they had an RDSP,

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[6] In finance and economics, indexing is used as a statistical measure for tracking economic data such as inflation, unemployment, gross domestic product (GDP) growth, productivity, and market returns (Hayes, A 2023). Indexing at 3% refers to how the effects of inflation must be offset to maintain the spending power attached to the investment.

those accounts would need to be closed (Golumbek, 2017). Further, in the 2016/2017 fiscal year, there was a spike in year-over-year rejected applications for the DTC, from 30,235 to 45,157 (Eggleton et al., 2018, p. 1).

Breaking Down Barriers is an interesting document for at least two main reasons. First, it is very similar to its predecessor Getting it Right and second, it makes no direct references to any of the committees or reports that previously commented on the DTC or RDSP. As noted, both Breaking Down Barriers and Getting It Right were drafted because of internal policy decisions that sparked a sizable backlash.

Aside from their origin stories, it is noteworthy that of the eight recommendations in the report that concern the DTC, five were already identified in the previous reports listed in this chapter. For example, Breaking Down Barriers states:

> The current criteria for the DTC do not capture the reality of those living with unpredictable, episodic experiences of disability, even though they face the same higher costs of living, economic challenges and income insecurity (Eggleton et al., 2018, p. 11).

Other familiar issues and recommendations include the issue of eligibility for persons with episodic disabilities, the need for more medical professionals in the certification process and the need for training for CRA staff and employees on the DTC (pp. 123-124). Like Getting It Right, this report also calls for improvements to the T2201 (Recommendation 2.8, p. 124). Also similar are problems noted with the dispute and appeals process in recommendations 2.10 and 2.11 (pp. 125-126). This report is further evidence of a pattern of prior committee or report recommendations which appear to be ignored by Canada. Three recommendations solely concerning the RDSP would likely have been fundamentally different if the Senate Committee had applied the reasoning found in A New Beginning.

Breaking Down Barriers does not clearly identify the most likely and obvious reason why uptake of the RDSP is low, namely the high rates of poverty amongst persons with disabilities, even though it outlines the financial disadvantages of being disabled in Canada (Longfield & Bennett, 2002; Goodale & McCallum, 2004; Barton Love et al., 2006, Morris et al., 2018). While the report does discuss practical problems with the program, there is a disconnect in the understanding of what poverty means for uptake of the RDSP. Persons with disabilities in Canada state that they simply cannot afford to take any portion of their income and dedicate it to long term investments (Statistics Canada, 2022). Statistics Canada states that:

> *The most common reason offered for not opening an RDSP was not having enough money to save (46%). The next most common response was that they lacked information about the RDSP (29%), while 15% said that it was too complicated (Statistics Canada, April 1, 2022, p. 4)*

While Breaking Down Barriers recognizes that persons with disabilities in Canada struggle to pay application fees connected to (re)applying for the DTC, it does not make the direct connection to disposable income for the RDSP.[7] If the report had referred back to Recommendation 8 in Getting It Right, which states that the government should be responsible for paying application fees, then the affordability concern might have been at least partially addressed.

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[7] Disposable income refers to the amount of money that a person has remaining after required deductions such as taxes and contributions to insurance and benefits programs. It may also be use to describe the amount of money remaining after core expenses are covered such as food and shelter. For additional details on the disposable income levels of person with disabilities in Canada, see Statistics Canada (April 1, 2022). *Survey on Savings for Persons with Disabilities (SSPD)*. The Daily. https://www150.statcan.gc.ca/n1/daily-quotidien/220401/dq220401b-eng.pdf

Rather than focusing on ability to uptake, Breaking Down Barriers focuses on the issues of those who have an RDSP. For instance, the report includes a section labelled "The RDSP could better target the most vulnerable" (p. 17). Much of this section is dedicated to people who already have RDSPs and the associated complications. For example, the section discusses the complexities that arise when there is an issue of cognitive capacity and the limitations on withdrawals (Eggleton et al., 2018). Additionally, Breaking Down Barriers highlights the problems associated with the RDSP's Disability Assistance Payments (DAPs) (Appendix C; Eggleton et al., 2018).[8]

Despite the missed opportunity concerning affordability, Breaking Down Barriers seeks to address the income levels in a different way. Specifically, Recommendation 16 calls for a basic income program to be developed for person with disabilities, which is a recommendation not seen in previous reports. With a guaranteed basic income, it is possible that some of the affordability issues of the RDSP could be addressed. It is important to note that Recommendation 16 may begin to be addressed by the new Canada Disability Benefit that is scheduled for release in 2024.

Summary of Chapter 2

All of the Canadian government commissioned reports referenced in this chapter point to the need for DTC reform. Interestingly, Getting It Right highlighted historical failures concerning the DTC, while also anticipating future concerns in its statement "The passage of time and failure to act has only increased the urgency" (Longfield & Bennett,

[8] Deposits to an RDSP are governed by what is known as "the ten-year rule." The ten-year rule refers to how deposits must stay inside the investment for ten years. In other words, the funds must remain in the account for ten years or some of the money is clawed back.

2002, p. 17). What is missing across all the reports is a clear recommendation on how to reform the DTC and RDSP.

The chokepoint for both the DTC and the RDSP lies within the eligibility criteria and the words “markedly restricted.” Getting It Right calls for changes in the meaning of “marked restricted”. Disability Tax Fairness highlights that other meaning of marked restriction within the CITA prevent changing the meaning. Breaking Down Barriers discusses problems of eligibility but fails to include a clear path forward within its 16 recommendations. The architecture of Registered Savings schemes in Canada outlined in A New Beginning show the need for CRA’s involvement in the administration of the RDSP. This means the only choice available is to strike down and replace the term “markedly restricted” from the CITA with a term that does not conflict with other jurisprudence of the CITA. The elimination of this fundamental issue would be the first step in alleviating the problems associated with the DTC and the RDSP. By changing the terms, the 90% Rule is no longer relevant, opening the door for a more reasonable and realistic definition of disability.

Getting It Right contains many of the recommendations to be discussed in later chapters of this study. Subsequent reports that the Government of Canada commissioned and published contain many of the other recommendations that our literature review and key informant interviews highlight. What is clear is that changes to the DTC could contribute to efforts at alleviating the poverty among persons with disabilities in Canada. The Caledon Institute’s Sherri Torjman aptly stated in a 2015 commentary “tax breaks for social purposes are not the most effective policy response.

If the DTC remains unchanged, more persons with disabilities in Canada will remain in poverty.”

Chapter 3: Current Issues and Challenges

In this section, we detail issues surrounding the DTC in its current form using two broad categories: 1) Challenges with the DTC in general, and 2) Challenges specifically about the DTC application form and process. As described below, these categories were identified from both the literature review and key informant interviews. Drawing on the interviews, we provide direct quotes highlighting the impact of the DTC in its current form on the experiences of persons with disabilities in Canada.[9]

Challenges with the DTC

This section explores challenges related to the DTC program, including the different definitions of disability used by programs, who receives the DTC credit, the requirement to reapply for DTC approval, the 90% Rule for eligibility, the interaction between impairment/disability and the environment, the discrepancy between physical and mental disabilities, and the dynamic nature of episodic conditions.

Definitions of Disability Across Programs

The definition of disability for the purposes of eligibility for benefits varies across programs within the same level of government and across provincial levels of government. Multiple definitions of disability and eligibility requirements lead to uneven access to benefits. For example, both the DTC and CPP-D programs are administered through the federal government but operate using different definitions of disability and

[9] For additional details about our knowledge gathering, search strategy, and analysis, please refer to Appendix F

with different eligibility criteria. These differences mean that someone may qualify for CPP-D benefits but not qualify for DTC benefits, and vice versa (Roy et al., 2020).

At the provincial/territorial government level, each province/territory has jurisdiction to manage its own disability programming with respect to definitions, benefits and eligibility. Thus, across the Canadian landscape, many formulas and different benefit support systems exist. Individuals qualifying to receive provincially/territorially funded and defined disability benefits may not qualify for federal disability benefits (and vice versa). It is also worth noting that each program requires a separate application form with different application requirements—an individual applying for a provincial/territorial disability program, the DTC, and the CPP-D may have to complete (and cover related expenses for) three separate applications.

The differences in eligibility and definitions opens the door for programs and services in some jurisdictions to restructure their eligibility criteria in favour of more stringent definitions used by other programs (Roy, Svoboda, Isaacs, et al., 2020). Such a change could result in a reduction in the number of qualifying applicants. For example, the Ontario Disability Support Program (ODSP) announced its plan to restructure its current qualifying criteria to align with the one used by the federal CPP-D program (Roy, Svoboda, Isaacs, et al., 2020). This stricter definition would lead some currently qualifying individuals to lose their ODSP benefits, especially those who experience mental illness and/or neurocognitive disorders. The current ODSP definition of disability uses a more nuanced approach that considers activities of daily living (such as managing finances, transportation, and communications) and how chronic and life-long disabilities (such as Multiple Sclerosis (MS)) can be episodic in nature, causing fluctuations in an individual's level of functioning. Such an approach to disability is missing from the current federal definitions and understandings of disability, resulting in more restrictive eligibility criteria.

DTC Credit Often Taken Up by a Family Member

As noted, the DTC is a non-refundable tax credit—an individual must have taxable income to receive a benefit from a tax credit (Dixon & Hyde, 2000).[10] However, gainful employment, the primary source of taxable income for most people in Canada, is difficult and sometimes impossible for those who experience disability to the extent required for DTC eligibility.[11,12] In 2012, 3.4% of people in Canada over the age of 15 with a severe disability reported having no income, and only 45% of those with income had employment-related income (Roy, Svoboda, Issacs, et al., 2020).

When individuals receiving the DTC do not have employment or other taxable earnings, the DTC credit is unused/unclaimed and of no direct benefit to the qualifying applicant (Smart & Stabile, 2006). Because of this direct link to taxable income and employment, the DTC credit is often transferred to others who can benefit from it, such as parents, or a spouse (Smart & Stabile, 2006). Thus, the current structure of the DTC

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[10] The value of the credit is applied against the individual's tax obligation to lower the amount of taxes they are required to pay. If an individual has no taxable income, they receive no benefit from the tax credit.

[11] The interaction between earnings and disability was noted in our focus groups. Specifically, one participant stated that with some progressive medical conditions (for example, MS) an individual may not qualify for the DTC until their condition has progressed to the point that they cannot work, and thus, cannot receive benefit from the credit.

[12] The connection between disability and reduced earning capacity was noted in both the Disability Tax Fairness report and A New Beginning report. The latter report explicitly notes that the DTC, in its current form, provides a benefit to those supporting a person with a disability rather than providing a benefit to individuals with disabilities.

often results in benefits being received by someone closely related to qualifying applicant rather than the individual themselves (Prince, 2001). According to the Department of Finance, one-third of persons in Canada with severe disabilities receive no direct value from the DTC (Prince, 2001).

If the DTC credit is used by others, there is no guarantee that the monies received will be of benefits to the individual with a disability. One key informant expanded on this limitation, noting:

> People who are impoverished, for example, living on provincial benefits, there's very little advantage [of the DTC].

These circumstances create further inequities among persons with disabilities, as those with the lowest incomes and experiencing the greatest poverty are challenged to receive a direct benefit from the program. According to key informants, this lack of direct cash value reduces the potential of the credit received through the DTC to offset the increased cost of living experienced by persons with disabilities.

Reapplication and Re-Approval

Even where an individual is approved for the DTC, their approval often includes an end date for benefits, often 5 years from the original approval date. As the end date nears, individuals must reapply and re-prove their eligibility for DTC benefits to maintain continuity of benefits. As described by one advocate:

> Many people with disabilities are really tired of verifying that they didn’t grow out of their Down’s Syndrome.

Reapplication means being required to complete the current form and qualifying under the current criteria. It is possible that an applicant who was previously approved for the

DTC may be denied DTC benefits because the eligibility criteria have changed, even if their condition has remained the same (Longfield & Bennett, 2002; Golumbek, 2017; Eggleton et al. 2018). Additionally, applying for the DTC can be a frustrating process for some individuals and is often associated with fees from medical professionals and other whose services are needed to complete the application form.

90% Rule for Eligibility

As noted earlier, the CRA relies on a problematic interpretation of “marked restriction” to determine DTC eligibility. The marked restriction definition, known as the “90% Rule”[13,14], continues to cause challenges for persons with disabilities trying to access the DTC (Dunn & Zwicker, 2018).[15] Recommendations about the application criteria and form have culminated in yet another revision that continues to be complicated and flawed in its effort to quantify what it means to be disabled (Longfield & Bennett, 2002; Goodale & McCullum, 2004; Eggleton et al., 2018). The most recent version of the application form uses a 5-point Likert scale to express severity and frequency (Figure 2). Presumably, a 5-point scale would be scored in categories 0-20, 21-40, 41-60, 61-80, and 81-100% of the time. However, “severe” and “always” scales are in the 81% - 100% bandwidth.

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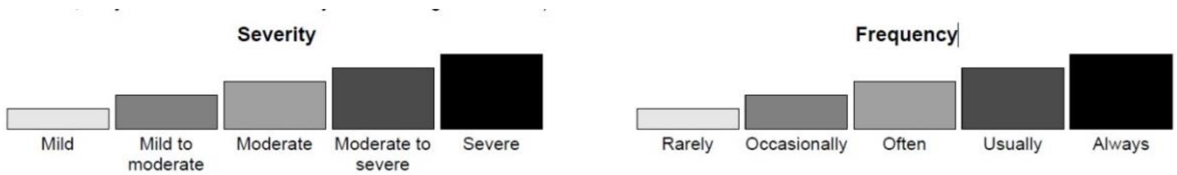
[13] While the 90% Rule has become the benchmark for eligibility, as pointed out by one key informants, it is not contained within CRA policy documents or legislation. The key informant further noted that doctors use this 90% Rule as a guideline when completing DTC application form.
[14] Key informants also noted that the 90% Rule unfairly affects individuals with mental disabilities and episodic impairments as they often do not meet the eligibility criteria.
[15] The problematic nature of the 90% Rule and the correlating “marked restriction” term was first noted in the 2002 Getting It Right report, and subsequently reiterated in the 2004 Disability Tax Fairness report.

Figure 2 – Likert Scale in 2023 Version of T2201



Based on this scoring approach, a person scoring 81% is indistinguishable from someone scoring 90% or greater, but eligibility is restricted only to those scoring 90% or higher. Compounding the problem is the lack of clear guidance or rubrics to discern a percentage of impairment in any given condition. Though the Disability Related Information document (Appendix B) provides some additional information concerning BADLs, the examples are all about physical and visible disabilities that require assistive devices like catheters, wheelchairs, and audio-visual testing (see Appendix B). Missing is any guidance for aspects of mental, emotional, and invisible disabilities.

Considering the above noted elements together, “marked restriction” ends up being interpreted as restricted 90% of the time. However, this does not correlate to the understanding of disability provided through the application form and disability related supplemental forms. Rather, it is left to interpretation.

Person-Environment Interactions

The current eligibility criteria do not address how impairment intersects with context and community, which is a reality experienced by persons with disabilities. Specifically, context and community have a substantive bearing on whether a condition is disabling.[16] For example, Conti-Becker et al. (2007) note:

> A young, elite wheelchair athlete living in an accessible community with a modified van and a driver's license would qualify for the credit. However, an elderly person using a cane and able to walk one hundred meters on a flat surface, but unable to climb his or her stairs or access the nearest bus stop would not receive the credit. (p. 286)

The DTC requirements focus on functioning without adequate attention to the environmental context; it considers what an individual can or cannot do and ranks those activities based on a general understanding of impairment. In the above example, we see how someone who cannot walk would be provided the DTC credit while someone who can walk would be denied. However, when we consider how the environment interacts with a person's condition, we see that the individual who is unable to climb 1-2 steps and lives in an area where climbing steps is required to access services would be much more restricted than someone would who lives in an accessible community.[17]

Assessing activity or function devoid of environment, as does the DTC, ignores the fact that the environment is a key factor in the disablement process. Advocates have been pushing back against simplified medical explanations of disability for nearly 50 years (Oliver,1990). More recent conceptualizations of the disablement process, in particular the WHO's bio-psychosocial model, emphasize how the person in context can change the nature of disablement. In general, new concepts of disability highlight the

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[16] The 2002 report Getting It Right recommended the eligibility criteria for the DTC be adjusted to "reflect the reality of living with a disability" (Longfield & Bennett, 2002, p. 30), meaning it should reflect how the environment interacts with a person's impairment/disabilities.

[17] An example from a key informant of incongruities in eligibility…if someone with Type I Diabetes can afford an insulin pump, they are able to access the DTC. But if they rely on finger pricks to test insulin and adjust diet accordingly, they are not eligible. Even though continual finger pricks, diet adjustments, and blood sugar monitoring may be more confining for the individual than using an insulin pump, yet use of the pump qualifies for the DTC credit because it is considered a higher level of impairment than finger pricking.

importance of both the social model, where barriers to participation are constructed by society, and interaction models that emphasize the interaction between person and context (Shakespeare, 2014).

Eligibility for Physical and Mental Disabilities

Generally, DTC eligibility requirements for physical disabilities are clearer and more readily met than those disabilities associated with mental health and function (Abrams, 2017). The disparity in their treatment has its historical roots in the fact that the DTC was first developed to serve the needs of persons living with physical disabilities. Efforts to include mental health and function have been undertaken through modifications to an approach developed solely for physical disabilities. Consequently, persons with disabilities associated with mental health and functions have more difficulty qualifying for the DTC than persons with physical disabilities.[18]

Although impairments of mental health and functions are noted as qualifying for the DTC, the description of the requirements for these conditions suggest higher levels of disability and lower functioning than is implied for physical impairments. Noteworthy is that the eligibility criteria do not consider how impairments of mental health and function interact and restrict communication and social engagement (Conti-Becker et al., 2007). For example, individuals with depression, personality disorders, and/or thought disorders may have elevated difficulties interacting with others, including

[18] Getting it Right recommends the DTC be redesigned to better address mental illness disabilities, which is echoed in the 2004 Disability Tax Fairness report.

interacting with medical professionals, something that is required to ensure proper completion of the DTC application form.

The seemingly uneven eligibility criteria for the DTC were noted by key informants, who described the criteria for those with deficits relating to mental health and functioning as subjective and harder to report accurately. Many people were concerned that few persons with disabilities would meet the criteria despite having a condition that significantly impacts their daily functioning. One family doctor noted:

> So, there is a certain level of subjectivity that comes with the application as well, and I think there is a difference… whether the impairment tends to be a physical one or a mental one. From my point of view, the physical impairments are pretty cut and dry with the application. But there is a little bit more room in the mental impairment section that call for some subjectivity.

Persons with mental illness were described by key informants as being particularly disadvantaged, as explained by one informant with lived experience:

> A lot of people with mental illness are turned down, or if they are accepted, they have to apply again, because they consider them likely to get better.

Dynamic Nature of Episodic Disabilities

DTC eligibility concerns in relation to episodic disabilities also arose in both the literature and key informant interviews. A key issue is that there is no place in the application to describe the dynamic and fluctuating functional abilities of individuals with episodic conditions such as multiple sclerosis or mental illness (Conti-Becker et al., 2007). The requirement of describing the condition in its current form often results in individuals with episodic conditions not qualifying for the DTC if they do not experience disability 90% of the time.

There have been successful court cases wherein individuals have argued that they were denied DTC eligibility because of the dynamic nature of their disabilities (Golumbek, 2018; Golumbek, 2021). However, DTC eligibility criteria and the application form have not been modified to explicitly include such conditions (Longfield & Bennett, 2002; Goodale & McCallum, 2004; Eggleton et al., 2018). Thus, the lack of explicit consideration of the dynamic nature of some disabilities remains an ongoing challenge with the DTC.

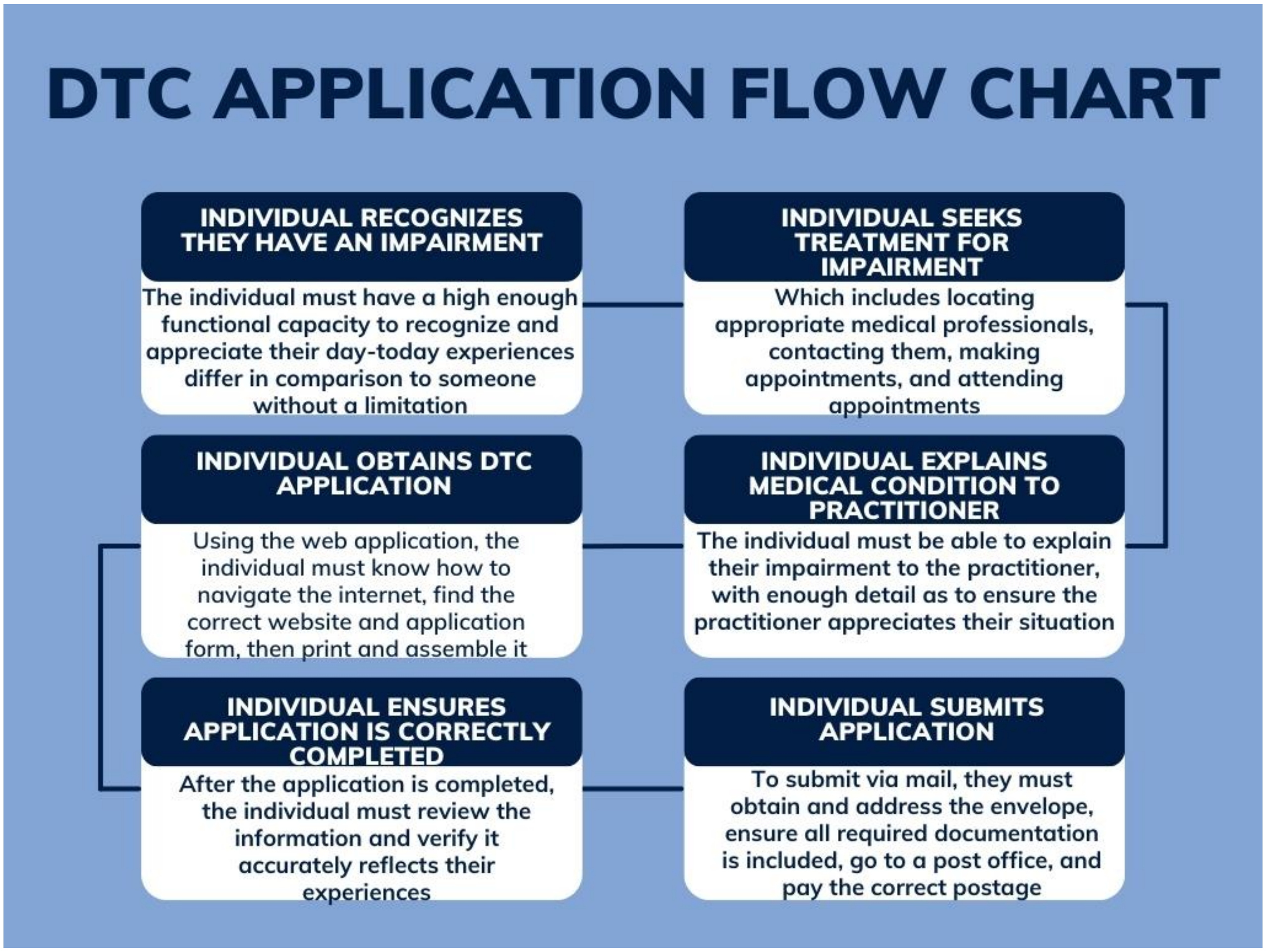
Application Form and Application Process

The application form and process present challenges for persons with disabilities in Canada seeking to access the DTC. Issues include the assumption of capacity, the complexity of the application, the requirement for a medical practitioner assessment, the fees associated with completing the application, and the proliferation of a DTC consulting industry.

Assumption of Capacity

The DTC application form and related process is quite detailed. As a result, there is an implicit capacity assumption that is counter to the level of disability required for DTC eligibility. To successfully complete the DTC application form an individual must first identify themselves and their impairment as being potentially eligible, seek treatment for that impairment, obtain the DTC application form, effectively explain and/or show how the conditions affects their activities to a medical practitioner, ensure their application is correctly completed by appropriate medical professionals, and provide other information to the CRA as needed (see Figure 3 for a depiction of the DTC application process).

Figure 3 – DTC Application Flow Chart



When viewed as a sequence of detailed steps, it is entirely understandable why some individuals with disabilities do not apply for and/or obtain the DTC. Completing the application form correctly and submitting it to CRA demands significant foresight and ability, including the ability to sequence, coordinate and problem solve. It is likely that anyone with an impairment as debilitating as that required to qualify for the DTC would find these steps daunting or impossibly insurmountable. Consequently, it is understandable how the application and relation process give rise to systemic barrier for individuals with disabilities.[19] The capacity requirement may be overcome in cases where individuals have significant support network to assist them with the application and related process.

If we consider the range of disability support programs for persons with disabilities available through various levels of government in Canada and in the private sector,[20] the criticality of capacity is further magnified. Different forms, different eligibility criteria, different supporting documents, in addition to navigational issues further magnify the need for capacity.

Overall Application Complexity

Key informants highlighted challenges associated with application complexity. This issue has been extensively discussed in reports since 2002 (Longfield & Bennett). Both the application and appeal process were described as complex, arduous, and untenable for many persons with disabilities. Questions on the application form were described as unnecessarily intrusive, confusing, and difficult to complete (Longfield & Bennett, 2002; Goodale & McCallum, 2004; Eggleton et al. 2018; Golumbek, 2017).[21]

Medical Professional Involvement

The DTC application form uses very specific language for eligibility requirements with minimal explanation of what those terms mean (Conti-Becker et al., 2007). The terms

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[19] Systemic barriers are relevant across physical, neurological, and mental impairment, even though there may be impairment-specific issues.
[20] Capacity issues include the available tax credits for sign language interpreters for meetings, teletypewriter machines for receiving typed messages through a telephone, and the availability of forms and publications in Braille format (Prince, 2001).
[21] Some key informants did note that recent changes to the application form have made the overall application form and process much easier.

used are not common or used in other areas (Conti-Becker et al., 2007). Though medical professionals are designated authorities tasked with completing the form, the eligibility criteria are written in taxation language rather than medical language. The profession-language mismatch can give rise to inappropriately or ineffectively completed applications. As a result, CRA application reviewers may misinterpret the terminology used, increasing the possibility of application rejection.

The application allows for only one medical practitioner to complete it, but persons with complex or multiple disabilities may have multiple specialists serving them. Given that the medical assessment component of the application form is divided by body system, it can pose a challenge for some specialists to complete, particularly for individuals who have disabilities that span more than one classification. One is obliged to select one specialist or a general practitioner to complete the application form, yet neither may have the deep knowledge in all the relevant areas to adequately profile a person's condition and its impact on their lives (Conti-Becker et al., 2007). Even if multiple professionals could be enlisted to help complete the form, most applicants would find it challenging to coordinate and financially costly, since medical professionals generally charge a fee to review and complete such forms.

It is important to note that medical fees associated with the DTC application completion by a medical professional are not standardized. Medical professionals may or may not be governed by their respective professional associations regarding standardization of fees. Furthermore, the complexity of some disabilities, paired with the complexity of the form, makes it difficult to predict how long it will take to complete the form.

Among the key informants interviewed, many stated they had difficulty finding a doctor or a medical professional willing to complete the DTC application form.[22] Medical professionals we spoke to acknowledged the hesitancy that many of their peers have about completing the forms because they lack knowledge and skills to do so. Rather than risk completing the form incorrectly, or having their assessment of the individual misinterpreted, many prefer to decline requests to complete the form. This hesitancy is not unfounded, given there are instances where government authorities have reprimanded medical professions for filling out forms too liberally. One doctor we spoke to noted:

> Some companies were hiring practitioners to do applications sight unseen. So, they were doing applications, I guess, fraudulently and eventually CRA did a crackdown on that and that was quite public, and I believe that that left practitioners a little reluctant to do an application that had to go through CRA. There's a bit of a historical thing there where doctors or other practitioners didn't want to come across to CRA as aiding and abetting someone who didn't have a good application. So, if there is any sort of subjectivity to the application, or the impairment isn't really cut and dried, there is a historical sort of reluctance.

Given this reluctance by some practitioners, individuals often need help finding a medical professional who is willing to complete the necessary paperwork, and an application will not be reviewed without the medical component completed.

[22] Key informants also noted challenges with finding a medical professional who could complete the form in a way that accurately reflects the impact of their impairment/disability on their daily life. They highlighted how critical it was that doctors and other medical professionals understand the DTC and how the assessment of eligibility works, while simultaneously understanding their experiences with their condition given their environmental context and the impact it has on their daily functioning. Without this understanding, they are unlikely to complete the application form in a manner that would meet the eligibility criteria. This means that for a medical professional to complete the DTC application successfully, they must have a thorough understanding of the individual’s disability and be able to articulate that medical condition using taxation terminology.

Cost of Medical Professionals Expertise

A common concern expressed in the literature and by key informants is the fees that professionals charge to complete the DTC application form (Dunn & Zwicker, 2018; Golumbek, 2021).[23] Additionally, paying the fee associated with any given DTC application does not provide any guarantee of success in receiving the credit. There is no prescribed amount or limit to fees, so professionals authorized to complete the form set their own fee schedule. Some professionals, like that of some psychologists, are governed by professional associations that prescribe fee schedules, which can range from $200-250 per hour (Sana Health Counselling, 2022).

The burden of the expense incurred to have a medical professional complete the form is compounded by the fact that many persons with disabilities are poor or have lower levels of income relative to able bodied persons (Longfield & Bennett, 2002; Statistics Canada, 2022). Lower levels of disposable income mean the expense is that much more onerous. In some ways it seems counter intuitive to have persons who have low income incur expenses to apply for DTC in order to offset their incremental cost of living. Additionally, as noted, the DTC is only approved for a period of time, thus expenses will be incurred again with reapplication.[24]

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[23] Getting it Right notes fees associated with completion of DTC applications and made recommendations to remedy the situation.
[24] Getting it Right recommends establishing a streamlined recertification process for continuity in access to the DTC.

DTC Consultant Industry

Complexity of the application form and process have given rise to an industry offering services to support the process. Many persons with disabilities in Canada have turned to these private agencies, called DTC consultants, who provide assistance with the application form and process for a fee. Currently, there is no cap on the amount that can be charged for helping a person with adisability complete the application. DTC consultants may charge a set fee for services, a percentage of the monies received from the CRA upon approval of the DTC, or a combination of both. DTC consultants often seek retroactive adjustments to previously filed tax returns. Some receive upwards of $8,000 per successful application (representing 30% of the monies received by the applicant) (Golombek, 2021).[25] Key informants expressed concern about the DTC consulting industry because of the often exorbitant fees.

The DTC consulting industry is unregulated, and sometimes described it as predatory. Key informants noted that some consultants advertise on social media and taking advantage of those who struggle with the application form and process. In 2012, the Disability Tax Credit Promoters Restrictions Act was tabled which would limit the fees such consultants could charge for services. Although it received Royal Assent in 2014, it remained inoperable because fees were to be established and set via subsequent regulations. After significant consultations, regulations limiting fees were prescribed, but have yet to come into force (Golumbek, 2021). One DTC consultant firm, True North Disability Services Ltd., sought to have the regulations declared

[25] Fees are often charged through a contingency agreement. This approach may be particularly appealing to individuals with low income as they are not required to pay upfront costs for medical professionals.

unconstitutional and was granted an injunction pending the outcome of the constitutional challenge (Golumbek, 2021).[26]

As it stands currently, consultants extract thousands of tax refund dollars from the most vulnerable people with the most precarious incomes because of the complexities and uncertainties associated with navigating the application form and process.

Summary of Chapter 3

We identified multiple issues associated with the DTC program through the literature and key informants. A key one is the challenge of navigating the disability support system that consists of programs at various levels of government and the private sector each with different forms, definitions of disability and eligibility criteria. Given the non-refundable nature of the DTC and the need for taxable income to receive any direct benefit from the credit, the DTC disproportionately benefits those with higher incomes or the relatives of disabled individuals, rather than disabled persons themselves. Reapplication requirements and the restrictive eligibility further complicate access to the DTC. Additionally, eligibility requirements do not consider the nuanced realities of living with a disability, especially the interaction of a person with their environmental. A further challenge is the inadequate treatment of disability associated with mental health and other episodic conditions.

The application form and process create additional challenges for persons with disabilities. Issues include the complexity of the application form and process and the

[26] To date, this constitutional challenge has not been resolved.

problematic reliance on medical professionals not familiar with taxation language. There is also a monetary cost that can arise due to the need for medical professional involvement, which can be a substantial burden for many persons with disabilities. Lastly, the emergence of a largely unregulated DTC consultant industry that exploits the system's complexities, further adds to the financial burden and creates additional barriers to benefiting from the program.

In summary, our findings identified ongoing challenges and inequities within the DTC program that create barriers and make it inaccessible to many persons with disabilities, especially those in a dire financial situation with few supports and resources. The findings highlight an urgent need for comprehensive reform to make the DTC more inclusive, equitable, and reflective of the diverse experiences of persons with disabilities in Canada.

Chapter 4 – Recommendations and the Way Forward

There are multiple steps that could be taken to address the challenges and limitations associated with the DTC noted in this report. In this section we consider policy options outlined in the literature and discussed by key informants in both interviews and the workshops. Importantly, these options should be considered as the new Canada Disability Benefit is being finalized. As noted by several key informants, the Canada Disability Benefit, if effective, might reduce the need for the DTC. However, the focus of our recommendations is on making the DTC more effective and accessible, regardless of the potential of the Canada Disability Benefit.

Recommendations

Our findings highlight several challenges with the DTC including complexity of the application form and process, limitations on who benefits from the DTC, restrictive eligibility, challenges with the definition of disability used for eligibility, and limited value of the non-refundable nature of the DTC due to low earnings of many persons with disabilities. Given these challenges, our recommendations for the way forward are as follows.

Recommendation 1 - Make the DTC application more accessible.

This involves improving accessibility features of the application form and standardizing or eliminating fees attached to applying for the DTC. Making the DTC more accessible also involves revisiting the steps needed to complete an application and simplifying the process where possible. It also involves educating medical professionals about the DTC and how to complete the form, improving the accessibility features of the application itself, reducing the steps needed to apply for the DTC, and improving DTC continuity once eligibility has been determined.

Recommendation 2 - Coordinate the DTC with other disability credits and benefits.

Access to the DTC should be coordinated with other provincial and federal benefits. This is critical since no one program offers a full complement of benefits and services. There is a need to coordinate how disability credits and benefits are accessed to ensure that persons with disabilities across Canada can access the full complement of supports they need regardless of age, disability type and employment status. This requires careful consideration of different scenarios of need across Canada by age, gender, and other key factors related to a person's lived experience.

A key starting point for coordination would be to realign the DTC with its intended core purpose. At its most basic level, the DTC is meant to offset the incremental costs associated with being disabled. Essentially, it is meant to serve as a device for achieving horizontal equity between persons with and without disabilities (Goodale & MacCallum, 2004). The findings presented in this report reveal that it does not offset these costs. As a non-refundable credit, individuals who benefit from the DTC, at best, only recover a small percentage of the incremental living costs they incur due to their disability, leaving persons with disabilities trailing significantly behind their non-disabled counterparts.

Recommendation 3 - Provide seamless access to disability benefits available in Canada.

The DTC as a pathway to accessing other benefits should be opened up to allow other pathways to their access. This is especially critical given the low uptake of the DTC. There is a need to ensure that there are other pathways to being deemed a “person with a disability” who is eligible for these other benefits. Specifically, once someone is deemed a person with a disability by a government program in Canada, whether it is a provincial or federal program, they should be able to seamlessly access other disability benefits and programs at any level of government.

Recommendation 4 – Position the DTC within Canada’s poverty reduction strategy.

In establishing Canada’s poverty reduction strategy moving forward, the federal government should consider how, if at all, the DTC can be used as a tool to alleviate poverty and income insecurity? Given the added costs associated with living with a disability (e.g. therapy, equipment, transportation), together with reduced career opportunities and earning potential, persons with disabilities in Canada experience higher rates of poverty and income insecurity. Such experiences are especially prevalent when disability intersects with other forms of oppression due to, for example, race, gender, pre-existing poverty, and lower educational attainment. If Canada is to be successful in its efforts to reduce poverty, a coordinated effort needs to be made to address the challenges that persons with disabilities experience.

In its current form, the DTC does very little to address poverty because it is tied to taxable income. Yet there is an inverse relationship between severity of a person’s impairment and their income, based on findings from the Canadian Survey on Disability (2017). Essentially, persons with severe disabilities have extremely low incomes which means their payable taxes are either negligible or non-existent.

The aim of the DTC should be reframed to support principles of independent living rather than expense recovery to more meaningfully align with Canada's poverty reduction strategies. A clearly stated intent of this sort would pave the way for coordination between the provinces/territories and the federal government, in order to minimize claw backs and maximize the benefit of the DTC.

Ultimately there is a win-win with poverty reduction. Higher incomes are associated with better health outcomes which, in turn, could reduce the demands on a medical system that is already strained. Additionally, persons with disabilities in Canada with more financial security would have a better chance of entering the labour force and avoid the traps associated with poverty.

Recommendation 5 – Change the DTC back to a refundable tax credit.

Changing the DTC back to a refundable tax credit would allow more persons with disabilities in Canada to benefit from the credit. As it currently stands, there is only a small group of persons with disabilities who benefit from the DTC. That is, individuals who: 1) meet the disability eligibility requirements, 2) earn sufficient income to make use of the deduction, 3) avail themselves of any other secondary benefits, and 4) have sufficient means to invest in an RDSP. If the intent of the DTC is to address the added cost of living with disability among all persons with disabilities, the non-refundable form is substantially inadequate.

As noted, even as a refundable tax credit the DTC would not fully address the incremental cost of living experienced by persons with disabilities in Canada, but it could benefit more people as such. Essentially, it would lead to more persons with a disability applying for and receiving the credit because it would allow individuals to benefit from the program regardless of their employment status and tax burden.

Recommendation 6 - Amend DTC eligibility so all lived experiences of persons with disabilities are treated equitably.

The eligibility criteria for the DTC should be revamped through consultation with persons living with a disability to ensure that the criteria reflect their lived experiences.[27] The current eligibility criteria for the DTC results from piecemeal changes to the eligibility criteria and their implementations, and as they stand, the criteria do not convey a reasonable measure of disability. If the DTC is meant to address the added cost of living with a disability in Canada, a focus on these additional costs should guide the eligibility criteria. Revision to the definition of disability would see eliminating terms such as “marked restriction” and the 90% Rule, in favour of less restrictive disability constructs that are consistent with the experiences of persons with disabilities in Canada.

Addressing equitable treatment might begin with a review and reframing of the construct of disability used in the DTC, with consideration given to definitions used in programs and initiatives across Canada and internationally. Additionally, consideration might be given to the ICF framework, which blends the social and medical models of

[27] Consultation must include voices of person across varying types, levels, and intersections of disability.

disability. Such a framework might provide insights into how best to assess and address the incremental cost of living experienced by persons with disabilities.

Recommendation 7 - Promote education and awareness of the DTC.

Persons with disabilities in Canada and their supporters must have the information they need to make informed decisions about their options and take steps to access various disability programs that could meet their needs. Education and awareness campaigns must consist of multiple pathways for including social media, websites, brochures and advertisements. It must include educating doctors and other medical professionals about the DTC and how to complete the DTC application. A broad information campaign with widely available resources to assist with navigation of the various supports and benefits could increase the uptake of the DTC.

Discussion

The findings of this research draw on past literature and key informant interviews to highlight challenges, inequities, and options to improve the DTC program to better meet its intent. Drawing on this combined data, we can conclude that the DTC program could better meet the needs of persons with disabilities in Canada and better address the persistent inequities experienced by them. In addition, we find that many of the issues we noted about the DTC are well known to people in Canada through reviews and reports completed over the last two decades, including reports which were commissioned by Canada. Yet, many of the recommendations from these reports remain unaddressed.

There are some limitations associated with our report that should be noted. First, we spoke to people in Canada who are familiar with the DTC based on their experiences applying for and receiving it or based on their work in the field. Although we attempted to speak to persons with diverse experiences and perspectives, we could have missed some issues about the DTC, or not fully captured some details. Furthermore, the DTC has changed over time and some of the issues reported by participants may have been addressed in recent revisions of eligibility and the new application form. But we do not know with certainty that this is a limitation, since we did not review the most recent changes to the DTC program.

The findings in this report highlight the importance of finding effective ways to address poverty and income insecurity among persons with disabilities and the need to address income inequity in Canada through the DTC and beyond. The DTC is one tool to address income inequity and offset the additional costs associated with living with disabilities. However, it is insufficient on its own to fully address the persistent poverty experienced by persons living with a disability in Canada.

There is a need for a more fulsome review of income benefits for persons with disabilities in Canada, including how they interact and their collective impact on the experience of living with a disability. As noted by Prince (2001), “one front [to attaining equity] is to reform the policy development, program management, and performance measurement and reporting processes within the federal government to ensure that initiatives across all departments and agencies systematically take into account the needs and rights of persons with disabilities” (p. 497). Similarly, Smart and Stabile (2006) noted that the effectiveness of provincial income assistance is impacted by the lack of coordination among existing poverty reduction and income support strategies in Canada, lamenting that, “the lack of coordination among existing measures is a significant obstacle to achieving the equity goal” (p. 418).

Importantly, the function of the DTC may shift in light of new developments in disability benefits with the advent of the Canada Disability Benefit program. Clearly, a new system is urgently needed to address income inequity more fully for persons with disabilities in Canada. The DTC is but one component of this approach.

Conclusion

This report highlights that while the DTC could be used as a tool to address poverty and income insecurity in Canada, it is currently not meeting these objectives. Its criteria are too limited, the application form and process are inaccessible, and its gateway function is overly restrictive and prevents persons with disabilities from accessing other benefits. In light of the high rates of poverty among persons with disabilities in Canada, these issues need to be addressed. A comprehensive review of the DTC eligibility and application form and process is urgently needed, as well as a review of how the DTC program interacts with other federal income and personal support benefits programs.

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Appendix A: T2201 DTC Certificate Application Form

Appendix B: RC4046 Disability-Related Information

Appendix C: RC4460 Registered Disability Savings Plan

Appendix D -Recommendations Table

	Recommendation	Getting It Right (2002)	Disability Tax Fairness (2004)	Breaking Down Barriers (2018)
1	Make the DTC application more accessible	5, 6, 8	2.8, 2.12	5
2	Coordinate the DTC with other disability credits and benefits		2.13	13, 14, 15
3	Provide seamless access to disability benefits available in Canada	9		
4	Position the DTC within Canada's poverty reduction Strategy			15, 16
5	Change the DTC back to a refundable credit			14
6	Amend DTC eligibility so that all conditions are treated equitably	4a, 4b, 4c, 6	2.2, 2.3, 2.4	3,4
7	Promote education and awareness of the DTC	10, 11	2.7	10

Appendix E: Savings Table from the 2006 A New Beginning Report

Estimates of Contribution Levels and Annuity Values

Annual Contribution ($)	500	1,000	2,000	5,000	7,500	20,000	5,000
Savings Period (years)	20	20	20	20	20	10	40
Cumulative Contributions ($)	13,435	26,870	53,741	134,352	201,528	200,000	200,000
Assets ($)	23,708	47,417	94,834	237,084	355,626	273,204	872,021
Age of Child at Annuity Commencement	35	35	35	35	35	35	55
Age of Parent at Annuity Commencement	65	65	65	65	65	65	85
Life Annuity Value ($)	1,004	2,008	4,017	10,042	15,064	11,572	46,346
Life Annuity Value PV ($)	676	1,352	2,703	6,758	10,137	9,493	20,990
20 Year Term Annuity Value ($)	1,653	3,307	6,613	16,533	24,799	19,052	62,493
20 Year Term Annuity PV ($)	1,113	2,225	4,450	11,126	16,689	15,629	28,302
Single Contribution ($)	50,000	50,000	100,000	100,000	200,000	200,000	200,000
Holding Period (years)	0	20	0	20	0	20	40
Assets ($)	50,000	148,679	100,000	297,357	200,000	594,714	1,768,425
Age of Child at Annuity Commencement	35	35	35	35	35	35	55
Age of Parent at Annuity Commencement	65	65	65	65	65	65	85
Life Annuity Value ($)	2,118	6,298	4,236	12,595	8,472	25,191	93,987
Life Annuity Value PV ($)		4,238		8,476		16,953	42,566
20 Year Term Annuity Value ($)	3,487	10,368	6,973	20,736	13,947	41,472	126,733
20 Year Term Annuity PV ($)		6,977		13,955		27,910	57,396

Assumptions:

1. Annual contributions made over the 20-year savings period are assumed to grow at 3% per year from their initial levels.
2. Annual rate of return is 5.6%.
3. Annuities indexed at 2%.
4. To obtain present value (PV) of annuity level at beginning of savings period, annuity level at end of savings period is discounted over a savings period at 2% per year.

Appendix F: Knowledge Gathering and Synthesis

Review of Peer-Reviewed Literature

We used the 6-step scoping review approach developed by Arskey and O'Malley (2005) and advanced by Levac et al. (2010) to identify and describe the nature and the scope of the literature about the DTC. Our overall purpose was to explore the impact of the eligibility criteria on the experiences of persons with disabilities, inclusive of the following three research questions:

1. What are the barriers individuals encounter when they attempt to access the DTC?
2. Is the DTC in its current format fulfilling its intended purpose?
3. What changes could be implemented to improve access?

Using EconLit, Soc Abstracts, Web of Science, and MEDLINE databases, an initial literature search yielded 877 articles for consideration. These articles were compiled into an Excel spreadsheet for initial reviewing (Step 3). Information from each article was collected and used to populate the spreadsheet including article keywords, abstract, jurisdiction, topic, and type of article. In addition, each article was assigned an ORN (Ovid Result Number) as an identifier. This information was independently reviewed by two researchers to determine whether articles were in scope (by assigning a 'yes' to the article), outside of scope (by assigning a 'no' to the article), or unable to determine based on the available information (by assigning an 'uncertain' to the article).

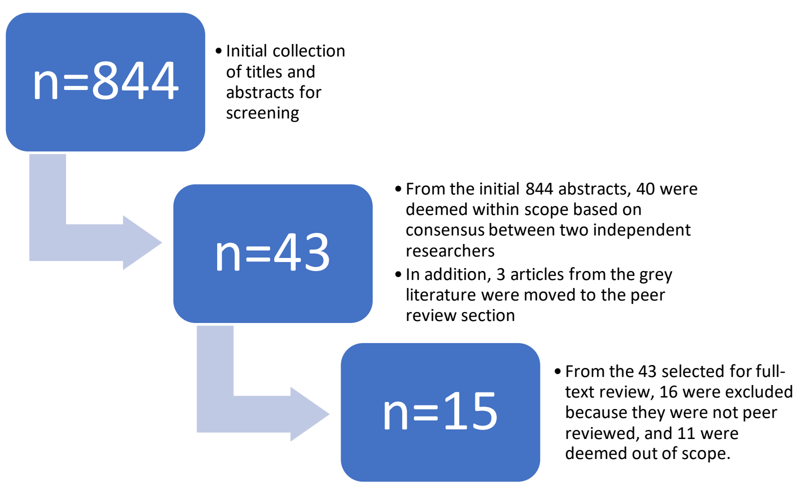
If both initial researchers determined an article was within scope, it was accepted as within scope. If both initial researchers agreed an article was not within scope, it was accepted as being outside of scope. If the initial researchers were not in agreement about an article, it was reviewed by the second pair of researchers to reach consensus.

From the initial 844 articles 40 were determined to warrant further analysis and moved to the new table for full-text review. As we did a full-text review of the included articles, we began to group the data extracted from the articles into initial themes to answer the research questions (Step 4). The themes were initially labelled as follows:

1. Barriers to accessing the DTC.
2. How disability is conceptualized in the DTC.
3. Proposal for reducing barriers to accessing the DTC.
4. Intent of the DTC.
5. DTC as a gateway.

The category ‘DTC background’ was used to capture information related to the progressive development of the DTC to provide a conceptual background and starting point for discussion and analysis. *Barriers* refers to noted challenges in accessing the DTC. ‘Success of Policy Goal’ refers to both the noted successes and failures of the DTC in its current format and relates to RQ2. ‘Disability Support Outputs’ refers to programs and policies that have been implemented and/or conceptualized and which could be adapted in the Canadian context. *Definitions of disability* refers to how disability is framed and conceptualized in differing circumstances. If a full review of the article determined it contained no information relating to one of the themes or to answer the research question, it was deemed not in scope and excluded. At this point, articles were also verified as being peer reviewed[28]. Between verification of peer review status and removal of articles that contained no information relating to the current themes, 27 of the 40 articles were excluded. Additionally, we were unable to locate one article in its full-text format, one article was not peer reviewed, and three articles from the grey literature were added after determining that they were peer reviewed.

Of the initial 844 articles, 40 were determined to warrant a deeper analysis and from those 40 (43 including the 3 received from the grey literature), 15 articles contained information related to the themes under analysis and form the basis for the peer review findings and discussions. The Excel spreadsheet for these 40 articles was populated with the original ORN for each article[29], the article citation, a summary of the key findings, summary of the findings by theme under study, jurisdiction, type of analysis, type of study, and information related to the methodology from the article.



[28] If an article related to the material under study but was not peer reviewed, it was moved to the grey literature portion of analysis.
[29] The three articles retrieved from the grey literature were denoted with 'sub' followed by a number to indicate they were added subsequent to the formation of the initial article list. The article that was replaced with a peer reviewed format article was denoted by the ORN followed by .1 to indicate it as a subsequent version or an earlier document.

Review of Grey Literature

The next component of this project synthesizes non-peer-reviewed or "grey literature." The grey literature includes government and non-government reports, responses to reports, and other types of evaluations. We use an adapted model of grey literature synthesis established in Adams et al. (2016) for searching and synthesizing grey literature in public health. Rather than a singular definition of grey literature, Adams et al. separates the term into three distinct types: grey literature, grey data, and grey information.

Table: Grey literature, data, and information (Adams et al. 2016)

Term	Defining aspect	Example
Grey literature	Not controlled by commercial publishing organization	Government commission reports, Government and Non-government reports, policy papers,
Grey data	User generated, web-based	Conference presentations, journalism, Government budget memorandums
Grey information	Informally published or not published at all	Meeting notes, non-profit website posts

We adapted the framework by Adam et al. to fit the distinct nature of the DTC literature, focused on tax policy rather than public health policy. Rather than synthesizing public health interventions, DTC literature and information address a range of data from low-level public complaints, Senate investigations and information pamphlets found in doctors' offices.

While there are some grey literature databases like OpenGrey, the specificity of finding information on a small tax credit within the Canadian tax system made such databases unfruitful. Some scholars attempt to shape the Google search engine as a tool for grey literature, but given the customized nature of algorithms, it is unclear if others could reproduce any of the results. Instead, we opted for the Memorial University Catalogue system (https://library.mun.ca) that draws findings from grey literature sources like the Canadian Electronic Library from desLibris, newspapers, and some internet publications. The Catalogue also addresses paywall issues because the University has access to all of the major newspapers in Canada. In addition to the Memorial Catalogue system, we also looked for Canadian think tanks and not-for-profit disability organizations looking for documents like:

- academic-style literature that may not have been peer-reviewed
- blog posts
- references to media publications
- press releases
- conferences and presentations

Documentation occurs at each search stage, including the date, relevant citation, the search terms used, and the number of results each search yielded. One of the challenges grey literature presents is the varying degree of how information is indexed (or not indexed) on websites. Some websites like maytree.com have a search function but present their results in pages rather than entries. Manual tabulation is necessary for pages with less robust indexing to calculate the total number of entries on any topic. Furthermore, within websites, there was a reliability problem with what entries appeared with any given search term. For example, Statistics Canada (StatsCan) does not allow Boolean searches and has no subsequent filters to sift through entries. A search for "disability tax credit" yielded over 6000 results. The first 25 results of the search only yielded four relevant links.

The non-standardized nature of searching for grey literature meant being flexible in search terms. Each website was subjected to the following iterative searches:

"disability" AND "tax"

"disability" AND "tax" AND "credit"

"disability" AND "tax credit"

"disability" AND "tax" AND "credit" AND "Canada"

"disability" AND "tax credit" AND "Canada"

After months of searching and accounting for duplications, a total of 100 documents were available on the DTC. Relevant documents were collated, reviewed and sorted for being either in or out-of-scope. Documents were then organized based on each document's central argument or expository point.

Data Extraction

The data extraction process adheres as closely as practical to techniques found in the peer-reviewed section of this report. Complicating grey literature data extraction is that most non-peer-reviewed materials do not contain research questions or rigorous sampling methods. The non-standardized nature of grey literature means that headings from the data extraction table require some interpretation to include the different types of entries that grey literature searches yield. Terms like “key findings” correspond to “conclusions” like court case outcomes or policy recommendations.

Document analysis is an iterative process of superficial examination, reading, and interpretation that combines content and thematic analyses (Bowen, 2009). Through content analysis, data extracted from the documents were organized into categories. The thematic analysis captures patterns in the data and capture the nature and scope of the existent literature.

Key Informant Interviews

We conducted qualitative interviews with people who have experience with the DTC, including persons with disabilities who receive the DTC, people who have applied for the DTC, and those who support persons with disabilities including family members, medical professionals and other service providers, advocates and representatives from key national disability organizations. Our focus was on examining key issues associated with the DTC from the perspectives of those most affected by it - persons with disabilities and those who support persons with disabilities in Canada. Specifically, we examined key issues associated with access to the DTC and how the benefit impacts experiences of persons with disabilities. The research question guiding this work was, “How do persons with disabilities in Canada access the DTC and what is the impact of the DTC on experiences of persons with disabilities in Canada?”.

The interviews were conducted on Zoom to allow us to interview people across Canada without the barriers created by travel, and to allow us to use features such as closed captioning. To address the potential barrier of accessing the technology required to participate in a Zoom meeting, we also provided a telephone number that participants could use to join the interview. Interviews were audio recorded in Zoom and transcribed verbatim using the artificial intelligence voice to text function, and then reviewing the text while listening to the audio to ensure accuracy. We then uploaded the transcripts to Dedoose, a mixed method research software to facilitate text-based analysis.

Before beginning the interview, a member of the research team initiated a process of informed consent, where participants were reminded that their involvement in the interview was voluntary, that they could stop the interview at any point and choose to say as much or as little as they wished. During the interview participants were asked questions relevant to their connection with the DTC. At first, we explored key ideas from the literature. In later interviews we followed up on key concepts and ideas from previous interviews and from our preliminary analysis according to the constant comparative approach to qualitative research (Boeije, 2002). Importantly, we asked participants to tell us what they think we should know about their experience with the DTC.

In total, we spoke to 20 individuals about their experiences with the DTC in 19 interviews. These individuals represented a range of perspectives and experiences with the DTC. See Table 1 for a summary of the participants and the perspectives they represented. We spoke to a range of people in Canada with diverse connections to the DTC, recipients/applicants, family members and caregivers of persons with disabilities, advocates and representatives from disability organizations, and service providers/medical professions.

Table 1: Characteristics of Participants

Interview Participants	Number of Participants
Total number of participants	20
Recipient	8
Applicant (not approved)	2
Family members/caregivers/advocate	2
Disability organization/advocate	3
Service providers or medical professionals	4

The analysis of the interview data was guided by the principles of thematic analysis to capture the experiences of persons with disabilities in Canada with the DTC. The analysis started with multiple readings of the transcripts by the research associates and the lead investigator to become familiar with the key concepts and experiences of participants. Next the research team developed a coding framework based on the key ideas expressed in the transcripts that addressed the research question. Then the transcripts were coded, and codes were grouped into higher-level themes grounded in the experiences of key informants (Braun & Clarke, 2006). Throughout the process the team met regularly to discuss emerging themes and agree on the description of each theme until all initial codes that were relevant to the research question were captured by the themes. Initially we had six themes but through further dialogue and discussion we identified four distinct themes that captured the experiences of persons with disabilities and their supports with the DTC.

Workshops

We ran two workshops in May/June 2023 with stakeholders and advocates who know the DTC program quite well to validate our analysis and understanding of the DTC, and review the recommendations we developed based on our findings. To ensure we explored and considered critical issues in our analysis and interpretation of the findings from both the literature and the interviews, captured all information and experiences we could find, and explored potential alternatives, we conducted workshops with those who have exceptional knowledge about the DTC and its function. During our data gathering phase, we identified individuals we considered experts on the DTC and combined their names with those from our combined professional network. In total, our research team compiled a list of 35 names, and we arranged for 2 workshop presentations (May 29 and June 1). The workshop invitees included advocates, researchers, analysts, and representatives from disability organizations. One of our research associates emailed the identified individuals to tell them about the project and invite them to attend one of two 90 mins workshops held by Zoom to hear a summary of our findings and to provide feedback.

From our initial list of 35, 7 invitees agreed to attend the first workshop, and 9 agreed to attend the second. A further 3 said they were unavailable for either date but wanted to provide feedback to us based on the executive summary circulated in advance. In the end 6 stakeholders participated in the first workshop and 8 in the second one, for a total of 14 participants across two workshops. Table 2 summarizes the individuals who participated in the workshops.

Table 2: Workshop Participants

Workshop Participants	Number of Participants
Total number of workshop participants	14
Government	2
Disability Organization	6
Advocate/Researcher	3
Service providers or medical professionals	2
Other	1

Both workshops were held over lunchtime Eastern Standard Time in an effort to make them accessible for individuals across Canada. Each workshop opened with a brief overview of ethical considerations, introductions, and a summary of the findings from both the literature and the key informant interviews, including recommendations based on the findings. We then facilitated a discussion and answered any questions or clarifications needed.