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Denyse Bertrand, Senior Policy Analyst
Legislative Policy Directorate,
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By email: lprraregulaq@cra-arc.gc.ca

Dear Ms. Bertrand:

I am writing as a Canadian with a disability who has been a tax specialist for over 30 years. While I have been in favour of a limit on the fees consultants can charge for assisting Canadians in obtaining the Credit for Mental or Physical Impairment, generally referred to as the "Disability Tax Credit" (DTC) since the Disability Tax Credit Promoters Restriction Act was proposed by MP Gallant in 2013, I am concerned about the proposed limitations contained in the [Disability Tax Credit Promoters Restriction Regulations](#) that were published in the Canada Gazette on June 1, 2019 (the "Regulations").

I am not writing out of self-interest. My tax practice does not include DTC applications or DTC dispute resolution but, on occasion, I assist special cases on a pro-bono basis. I am writing as a concerned Canadian who, despite not making any money from DTC work, has co-chaired the inaugural Disability Advisory Committee (DAC) to the Minister of Revenue and the CRA in 2005 and 2006, requested the reinstatement of the DAC in 2016 and subsequently co-founded and co-chair the [Disability Tax Fairness Alliance](#).

The proposed \$100 fee limit for helping a claimant apply for the DTC and the \$100 per year fee for helping an approved applicant access the tax benefits of the DTC will hurt the very people we want to help. Some applicants will not be able to afford the fee, especially when there is no guarantee of approval. Some of my wheelchair tennis colleagues can't afford the \$80 annual registration fee.

Despite the perception that the DTC application process is simple and efficient, for many people it is not. If the DTC were easy to access, the Senate Standing Committee on Social Affairs, Science and Technology would not have concluded the opposite in its June 2018 report,

[Breaking Down Barriers](#). Diabetes Canada would not have had to [go public with its concerns](#) in 2017 and the CRA would not have needed to reinstate the DAC. People with [Multiple Sclerosis](#), [Bi-Polar Disorder](#), [Tourette Syndrome](#), [Severe Learning Disabilities](#), [Schizophrenia](#) PKU, and an inordinate number of mental infirmities would not have to fight the CRA all the way to Tax Court to get their credits. While these cases should never have gone to court, the people we want to protect were forced there by the CRA, not by DTC consultants.

Our tax system operates on the basis that the CRA is right unless a taxpayer can prove them wrong (except for the assessment of certain penalties and reassessing old tax years). DTC consultants play an integral part in maintaining the integrity of the DTC by challenging a CRA that holds all the power.

While DTC consultants have a right to earn a living, they don't have the right to charge abusive fees. The "Disability Tax Credit Promoters Restrictions Act" was passed in 2014 but no fee cap was prescribed. We've gone all this time with no fee cap only to have it announced on June 1, with a 30 day "consultation" period. This is really just a "submission" period as there are no ongoing consultations.

Rushing these rules will yield undesirable results. For example, the Regulations do not apply to dispute resolution. The CRA has acknowledged, in question 11 of the Q&A document that the fee cap "does not include fees associated with help with appealing a determination". Has no one considered that predatory consultants will still be free to charge excessive fees once an application has been denied? The Regulations do nothing to stop the exact behavior we want them to stop? If this isn't a reason enough to slow this process down and get the fee cap "right" I don't know what is.

The proposed fee cap will force legitimate DTC consultants out of business, thus reducing access to professional assistance required for anyone with less than a clearly visible disability and certainly for most people with mental infirmities.

A contingency based fee cap of say, 20 or 25% will allow applicants, whose claims are not straightforward, to access the assistance they need and are entitled to¹ from legitimate consultants who will not be able to charge excessive fees. This model will also promote healthy competition amongst DTC consultants as they can choose to charge lower fees or charge on

¹ Item 15 in the [Taxpayer Bill of Rights](#) states "You can choose a person to represent you and to get advice about your tax and benefit affairs."

some other basis if they like. Furthermore, representation by consultants will provide a necessary “check” on the CRA’s administration of this important credit.

Canadians have been advised that the government consulted with the Disability Advisory Committee (DAC) regarding the fee cap methodologies, yet there appears to be only one tax person on the DAC, from H&R Block. If I am correct, the DAC membership could not fairly represent all the stakeholders affected by the Regulations. I would be happy to assist the DAC with the further deliberations that are required regarding the fee cap and will make that offer directly to it.

As a Canadian with a disability who does not depend on the DTC I ask that you help the ones that do. Please encourage the CRA to withdraw the Regulations and consider more viable and effective alternatives.

Sincerely,

A handwritten signature in blue ink, appearing to read "Peter Weissman", with a long horizontal flourish extending to the right.

Peter Weissman FCPA, FCA, TEP

cc: Joyce Murray, President, Treasury Board of Canada joyce.murray@parl.gc.ca
The Honourable Diane Lebouthillier, Minister of National Revenue Diane.Lebouthillier@parl.gc.ca