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SECTION 118.3  
SECTION  
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Please note that the following document, although believed to be correct at the time of issue, may not represent the current position of the CRA.

Prenez note que ce document, bien qu'exact au moment émis, peut ne pas représenter la position actuelle de l'ARC.

PRINCIPAL ISSUES: Does the \$10,000 limit found in paragraph 118.2(2)(b.1) for attendant care apply only on an individual payer basis (i.e., to each person paying for attendant care), or does it apply to restrict the total of all claims made for attendant care in respect of a particular patient to \$10,000?  
POSITION: Each person who is entitled to claim a medical expense tax credit in respect of the cost of attendant care provided to a particular patient under paragraph 118.2(2)(b.1) may claim up to \$10,000.  
REASONS: The wording of paragraph 118.2(2)(b.1).

May 25, 2006

Debbie Anderson  
Client Services Division  
Winnipeg Tax Services Office

HEADQUARTERS  
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2006-017218

Medical Expense Tax Credit ("METC") - Attendant Care in Nursing Home

We are writing in response to your email to us of February 17, 2006, wherein you asked for our comments regarding the \$10,000 limit found in paragraph 118.2(2)(b.1) of the Income Tax Act (the Act), with respect to payments for attendant care. We also acknowledge our telephone conversation with you of May 2, 2006 (Maley/Anderson).

Facts

Our understanding of the facts is as follows:

\* The first taxpayer (the "patient") resides in a nursing home. She pays for all the nursing home fees.

\* The patient is eligible to claim the disability tax credit (the "DTC") pursuant to section 118.3 of the Act.

\* The second taxpayer is the patient's son. He pays for an outside attendant to act as a companion to the patient.

## Issues

1. If no breakdown of the nursing home fees is provided, can the mother claim the nursing home fees as a medical expense under paragraph 118.2(2)(b) of the Act and the son claim the cost of the companion as a medical expense under 118.2(2)(b.1) of the Act?

2. If an appropriate breakdown of the nursing home fees is provided by the nursing home, can both taxpayers claim an amount up to \$10,000 as a medical expense under paragraph 118.2(2)(b.1) of the Act with respect to attendant care for the patient?

## Our Comments

### Issue 1

The patient can claim her nursing home fees as a medical expense under paragraph 118.2(2)(b) of the Act and, at the same time, the son can claim the cost of the companion as a medical expense under 118.2(2)(b.1) of the Act, provided that:

- (i) the companion can be considered to provide "attendant care" for purposes of the METC; and
- (ii) no amount in respect of the companion is claimed under paragraph 118.2(2)(b).

There is nothing in the wording of the Act that prevents claims from being made under both paragraphs 118.2(2)(b) and (b.1) by separate individuals in respect of the same patient.

Whether or not a person is providing "attendant care" for purposes of the METC is a question of fact. Mere physical presence is not sufficient. For example, a person who simply transports a patient is not providing "attendant care". There must be some form of direct care or personal service provided to the patient. In the present case, it is likely that the companion is providing attendant care, especially as you state in your email that the companion was "authorized by the doctor".

As you are aware, if the patient claims the METC for her nursing home fees under paragraph 118.2(2)(b), then she cannot claim the DTC.

## Issue 2

In our view, each of the patient and the patient's son can claim attendant care costs under paragraph 118.2(2)(b.1) up to the limit of \$10,000, provided that:

- (i) the receipt for the nursing home fees clearly details the portion of the fee relating to attendant care;
- (ii) the companion can be considered to provide "attendant care" for purposes of the METC, as discussed above; and
- (iii) no amount in respect of attendant care is claimed under paragraph 118.2(2)(b) by either taxpayer.

The wording of the Act supports the position that the \$10,000 limit found in paragraph 118.2(2)(b.1) is intended to apply per paying individual in respect of a particular patient. We note in particular that the limit is raised to \$20,000 in the year of the individual's death, rather than in the year of the patient's death.

If the patient and her son only claim up to \$10,000 each of attendant care expenses under paragraph 118.2(2)(b.1), and the patient does not claim any amount under paragraph 118.2(2)(b), then the patient will be able to claim the DTC (assuming all other conditions are met).

We hope the above will be of assistance to you in providing information to the taxpayers. If you have additional questions on this matter, please feel free to contact us.

Robin Maley  
for Director  
Business and Partnerships Division  
Income Tax Rulings Directorate