

NO.: **IT-513R**

DATE: February 24, 1998

SUBJECT: **INCOME TAX ACT**  
**Personal Tax Credits**

REFERENCE: Subsections 118(1) and (2) (also sections 117.1, 118.8, and 118.95; subsections 82(3), 117(2), 118(4), (5), and (6), 128(2), 250(1), 251(6), and 252(1), (2), and (4); the definition of “self-contained domestic establishment” in subsection 248(1); and paragraphs 60(b) and 251(2)(a))

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## ***Application***

This bulletin cancels and replaces Interpretation Bulletin IT-513 dated February 3, 1989.

## ***Summary***

Individuals are entitled to claim certain non-refundable tax credits in calculating taxes payable for a taxation year. These credits reduce the amount of income tax an individual owes. If the total of these credits is more than the income tax the individual would otherwise owe for the year, the individual will not get a refund for the difference.

This bulletin discusses the eligibility requirements and the amounts and calculations for the following non-refundable tax credits, referred to as personal tax credits:

- the basic personal tax credit;
- the spousal tax credit;
- the equivalent-to-spouse tax credit;
- the dependant tax credit; and
- the age tax credit.

Personal tax credits are calculated by multiplying a total or single dollar amount by the lowest tax rate percentage. The dollar amounts of the different personal tax credits, where applicable, are reduced by the income for the year (in excess of certain limits) of the individual, the spouse or the dependant. These dollar amounts and income limits are subject to adjustment to reflect increases, if any, in the Consumer Price Index in excess of 3%. Unless otherwise indicated, the dollar amounts and income limits contained in this bulletin apply for the 1992 to 1997 taxation years. The dollar amounts and income limits for other taxation years can be found in the General income tax package for the particular year.

A discussion of certain terms used throughout this bulletin, and a chart summarizing the basic eligibility requirements and calculations for personal tax credits, can be found in the Appendices at the end of the bulletin. For a list of other related bulletins, see ¶ 41 below.

## Discussion and Interpretation

### General

¶ 1. The topics of this bulletin are discussed under the following headings:

- Calculation of Credits (¶ 2)
- Basic Personal Tax Credit (¶ 3)
- Spousal Tax Credit (¶s 4-10)
- Equivalent-to-Spouse Tax Credit (¶s 11-22)
- Dependant Tax Credit (¶s 23-30)
- Age Tax Credit (¶s 31-34)
- Non-Resident Spouse, Child or Grandchild of an Individual Resident in Canada (¶s 35-38)
- Individuals Making Support Payments (¶ 39)
- Bankruptcy (¶ 40)
- Other Bulletins (¶ 41)

#### Appendix A – Terminology

- Child
- Income
- Mental or Physical Infirmary
- Spouse
- Support

#### Appendix B – Summary of Personal Tax Credits

#### Explanation of Changes

### Calculation of Credits

¶ 2. Subsection 118(1) sets out the formulas for calculating the basic personal tax credit, the spousal tax credit, the equivalent-to-spouse tax credit, and the dependant tax credit. Subsection 118(2) sets out the formula for calculating the age tax credit.

Personal tax credits are calculated by multiplying a total or single dollar amount by the lowest tax rate percentage referred to in subsection 117(2) (17% since 1988). The dollar amounts of the different personal tax credits are set out in the relevant provisions of the law and, where applicable, are reduced by the income for the year (in excess of certain limits) of the individual, the spouse or the dependant. These dollar amounts and income limits are subject to annual indexation. Basically, under section 117.1, these amounts will be increased by the portion of the annual increase, if any, in the Consumer Price Index in excess of 3%. Unless otherwise indicated, the dollar amounts and income limits contained in this bulletin apply for the 1992 to 1997 taxation years.

The dollar amounts, income limits, and tax rate percentage for other taxation years can be found in the General income tax package for the particular year.

### Basic Personal Tax Credit

¶ 3. An individual is entitled to a basic personal tax credit of \$1,097.52. This credit is calculated by multiplying the dollar amount of \$6,456 by the lowest tax rate percentage of 17%.

### Spousal Tax Credit

¶ 4. An individual may claim a spousal tax credit for a year if at any time in the year the individual:

- is married;
- supports his or her spouse; and
- is not living separate and apart from that spouse because of a breakdown of their marriage.

Since the requirements for claiming the spousal tax credit need only be met at some point in the year, the credit may be available in a year in which an individual marries, and may also be available in a year in which a marriage breakdown occurs. However, the credit is not available to an individual who, for example, may support his or her spouse through the payment of support amounts, in years following the year in which a marriage breakdown occurs and throughout which the two individuals live separate and apart.

An individual's claim for the spousal tax credit is subject to the amount of the spouse's income for the year. For the meaning of the terms "income," "spouse" (including "marriage"), and "support," see Appendix A.

¶ 5. The spousal tax credit is calculated by multiplying the dollar amount of \$5,380 (reduced by the spouse's income for the year in excess of \$538) by the lowest tax rate percentage of 17%. If the spouse's income is \$538 or less, the spousal tax credit is \$914.60 (17% × \$5,380). If the spouse's income is \$5,918 or more, the spousal tax credit is nil.

¶ 6. Where two individuals are living separate and apart at the end of a year because of a breakdown of their marriage, and the marriage breakdown occurred in the year, only the income for the period of the year before the breakdown is income for the calculation of the spousal tax credit. In all other cases, the income of the spouse for the entire taxation year must be taken into account in calculating the spousal tax credit.

¶ 7. If an individual's claim for the spousal tax credit would be reduced because of the inclusion in the spouse's income of taxable dividends received from corporations resident in Canada, the individual can elect, under subsection 82(3), to have all of the taxable dividends received by the spouse from taxable Canadian corporations included in the individual's income. If the individual so elects, the dividends are excluded from the spouse's income, thus allowing the individual to claim a larger spousal tax credit than would otherwise be available. Subsection 82(3) is discussed in the current version of IT-295, *Taxable Dividends Received after 1987 by a Spouse*.

¶ 8. Either spouse (but not both) may claim a spousal tax credit in respect of the other, provided the spouse making the claim is the one who supported the other.

## Limitations

¶ 9. Because of paragraph 118(4)(a), an individual cannot claim a spousal tax credit in a taxation year for more than one spouse. In addition, under paragraph (b) of the description of B in subsection 118(1), if an individual claims a spousal tax credit for a year, the individual cannot claim the equivalent-to-spouse tax credit for that year. For example, in the year in which there is a change in marital status, an individual may meet the requirements for claiming the spousal tax credit and the equivalent-to-spouse tax credit. In this case, the individual may claim the spousal tax credit or the equivalent-to-spouse tax credit, whichever is more beneficial to the individual. If the individual chooses to claim the spousal tax credit for the year, the individual cannot claim the equivalent-to-spouse tax credit for that year. For information on the equivalent-to-spouse tax credit, see ¶s 11 to 22 below.

¶ 10. If an individual is making support payments for the maintenance of a spouse, see ¶ 39 below for the effect on the spousal tax credit.

## Equivalent-to-Spouse Tax Credit

¶ 11. An individual who does not claim a spousal tax credit for the year and who, at any time in the year, was not married, or was married but did not support nor live with his or her spouse and was not supported by his or her spouse, may claim an equivalent-to-spouse tax credit for a qualified relative (subject to the amount of the qualified relative's income for the year) if, at that time:

- the individual maintained a residence (see ¶ 15 below) either alone or with other persons;
- the individual lived in the residence; and
- the individual supported a qualified relative in the residence.

The meaning of the term “qualified relative” is discussed in ¶ 13 below. For the meaning of the terms “income,” “spouse,” and “support,” see Appendix A.

¶ 12. The equivalent-to-spouse tax credit is calculated by multiplying the dollar amount of \$5,380 (reduced by the qualified relative's income for the year in excess of \$538) by the lowest tax rate percentage of 17%. If the qualified relative's income is \$538 or less, the equivalent-to-spouse tax credit is \$914.60 (17% × \$5,380). If the qualified relative's income is \$5,918 or more, the equivalent-to-spouse tax credit is nil.

¶ 13. For the purposes of the equivalent-to-spouse tax credit, a “qualified relative” is a person who is:

- a resident of Canada, except where the claim is in respect of the individual's child (see Appendix A);
- wholly dependent for support on the individual, or the individual and such other persons who jointly maintain the residence;
- related to the individual; and

- under 18 years of age or wholly dependent by reason of mental or physical infirmity, except where the claim is in respect of the individual's parent or grandparent. For the meaning of the term “mental or physical infirmity,” see Appendix A. For the extended meaning of the term “parent” or “grandparent,” see ¶ 25 below.

Paragraph 251(2)(a) provides that two persons are “related” to each other if they are individuals connected by blood relationship, marriage or adoption. Such relationships are determined by the rules contained in subsection 251(6), together with rules contained in section 252. For a discussion of these provisions of the Act, see the current version of IT-419, *Meaning of Arm's Length*.

¶ 14. A newborn child having life (however briefly) is considered to be dependent for support on an individual. An individual may claim the equivalent-to-spouse tax credit for a newborn child provided the other requirements to claim that credit are met. No tax credit is allowable for a fetus or a stillborn child.

¶ 15. A “residence” must be a self-contained domestic establishment, which, as defined in subsection 248(1), means a dwelling house, apartment or other similar place of residence in which a person as a general rule sleeps and eats. The size of the establishment is of no consequence and even a one-room bachelor apartment could qualify if it is self-contained. A room (or rooms) in a hotel or boarding house would not ordinarily be a self-contained domestic establishment.

¶ 16. An individual may support a qualified relative who lives away from the individual's residence while attending school. If the qualified relative ordinarily lives with the individual when not in school, and the other requirements to claim the equivalent-to-spouse tax credit are met, the individual may claim the equivalent-to-spouse tax credit for that person.

¶ 17. If an individual is living separate and apart from his or her spouse because of a breakdown of their marriage, but such spouses reconcile during a taxation year, the individual may be able to claim the equivalent-to-spouse tax credit for the year of reconciliation provided the individual does not claim the spousal tax credit for the year and the other requirements to claim the equivalent-to-spouse tax credit are met. This applies for 1997 and subsequent taxation years. Generally, for taxation years before 1997, such persons were regarded, in the year of reconciliation, as married persons who lived together throughout the year and thus a claim for the equivalent-to-spouse tax credit was not permitted.

¶ 18. An individual who is factually resident in Canada is not entitled to the equivalent-to-spouse tax credit in respect of a non-resident person, except for a non-resident child of the individual. In most cases, however, the equivalent-to-spouse tax credit will not be available for a non-resident child. This is because the child usually is not

supported in a residence in which both the individual and the non-resident child live.

If an individual is not factually resident in Canada, but, under subsection 250(1), is deemed to be resident in Canada, and the other requirements to claim the equivalent-to-spouse tax credit are met, the individual will be entitled to the equivalent-to-spouse tax credit for:

- the individual's child; or
- a qualified relative (see ¶ 13 above) who is also deemed to be resident in Canada under subsection 250(1).

### **Limitations**

¶ 19. Because of paragraph 118(4)(a), an individual cannot claim an equivalent-to-spouse tax credit in a taxation year for more than one person. In addition, under paragraph (b) of the description of B in subsection 118(1), if an individual claims a spousal tax credit for a year, the individual cannot claim the equivalent-to-spouse tax credit for that year. For example, in the year in which there is a change in marital status, an individual may meet the requirements for claiming the spousal tax credit and the equivalent-to-spouse tax credit. In this case, the individual may claim the spousal tax credit or the equivalent-to-spouse tax credit, whichever is more beneficial to the individual. If the individual chooses to claim the spousal tax credit for the year, the individual cannot claim the equivalent-to-spouse tax credit for that year.

¶ 20. If an individual is entitled to claim an equivalent-to-spouse tax credit for a person, paragraph 118(4)(c) deems the person not to be a dependant—of that or any other individual—for the purposes of the dependant tax credit and thus no one can claim the dependant tax credit for that person. However, if an individual who is entitled to claim the equivalent-to-spouse tax credit for a person would be entitled, except for paragraph 118(4)(c), to claim the dependant tax credit for the same person, the individual may be able to claim an amount in addition to the equivalent-to-spouse tax credit for that person. See ¶ 28 below for more information.

¶ 21. Because of paragraph 118(4)(b), the equivalent-to-spouse tax credit cannot be claimed by more than one individual:

- for the same person; or
- for the same residence.

The first rule would apply, for example, when there has been a marriage breakdown, and the spouses or former spouses who have joint custody of a child would both otherwise qualify for the equivalent-to-spouse tax credit for that child. The latter rule would apply, for example, where two or more individuals jointly maintain a residence in which they reside, and more than one individual would otherwise qualify for the equivalent-to-spouse tax credit. In either case, the equivalent-to-spouse tax credit may be claimed by only one individual. Such claims cannot be shared by having

individuals each claim a portion of the credit on their returns, even though there is agreement to share the claim. If the individuals are unable to agree as to who should claim the tax credit, neither can claim the credit. If the equivalent-to-spouse tax credit is denied because of this rule, a dependant tax credit may be claimed provided the requirements to claim the dependant tax credit and the limitation in paragraph 118(4)(e) are met (see ¶s 23 to 30 below).

¶ 22. If an individual is making support payments for the maintenance of the individual's child, see ¶ 39 below for the effect on the equivalent-to-spouse tax credit.

### **Dependant Tax Credit**

¶ 23. An individual may claim a dependant tax credit for each dependant (see ¶ 25 below) who was 18 years of age or over before the end of the year and dependent on the individual because of mental or physical infirmity. Although it is usually the case, it is not necessary that the dependant live in the same residence as the individual for the purposes of this credit. An individual's claim for the dependant tax credit is subject to the amount of the dependant's income for the year. For the meaning of the terms "income" and "mental or physical infirmity," see Appendix A.

¶ 24. For taxation years after 1995, the dependant tax credit is calculated by multiplying the dollar amount of \$2,353 (reduced by the dependant's income for the year in excess of \$4,103) by the lowest tax rate percentage of 17%. If the dependant's income is \$4,103 or less, the dependant tax credit is \$400.01 ( $17\% \times \$2,353$ ). If the dependant's income is \$6,456 or more, the dependant tax credit is nil. For taxation years before 1996, the dollar amount used in calculating the dependant tax credit was \$1,583, and this dollar amount was reduced by the dependant's income for the year in excess of \$2,690. The maximum credit that was available was \$269.11 ( $17\% \times \$1,583$ ).

¶ 25. For the purposes of the dependant tax credit, under subsection 118(6), a person qualifies as a "dependant" of an individual for a taxation year if the person is dependent on the individual for support at any time in the year and is:

- the child (see Appendix A) or grandchild of the individual or the individual's spouse; or
- resident in Canada at any time in the year and is the parent, grandparent, brother, sister, uncle, aunt, niece or nephew of the individual or of the individual's spouse.

Under subsection 252(2):

- parent includes
  - a natural parent,
  - a step-parent,
  - an adoptive parent,
  - a person of whom the individual is or was, pursuant to paragraph 252(1)(b), considered to be a child, and
  - a parent of the individual's spouse,

- grandparent includes
  - the grandfather or grandmother of the individual’s spouse, and
  - the spouse of the individual’s grandfather or grandmother,
- brother includes
  - the brother of the individual’s spouse, and
  - the spouse of the individual’s sister,
- sister includes
  - the sister of the individual’s spouse, and
  - the spouse of the individual’s brother,
- uncle includes the spouse of the individual’s aunt,
- aunt includes the spouse of the individual’s uncle, and
- niece or nephew includes the niece or nephew of the individual’s spouse.

¶ 26. Generally, a person will be dependent for support on an individual if the individual has actually supplied necessary maintenance, or the necessities of life, to the person on a regular and consistent basis. For example, when an elderly parent who is not wholly self-supporting because of mental or physical infirmity lives with a married child, and the child provides the necessary food, lodging, clothing, medical care, etc., the parent may qualify as a dependant of that child. The term “support” is discussed in Appendix A.

### **Limitations**

¶ 27. If an individual is entitled to claim an equivalent-to-spouse tax credit for a person, paragraph 118(4)(c) deems the person not to be a dependant—of that or any other individual—for the purposes of the dependant tax credit and thus no one can claim the dependant tax credit for that person. For example, an unmarried individual may support a wholly dependent infirm parent in a self-contained domestic establishment in which the individual also lives and which is maintained by the individual. In this situation, the individual meets the requirements of both the equivalent-to-spouse tax credit and the dependant tax credit but is prevented from claiming the dependant tax credit because of paragraph 118(4)(c).

In another example, in the year in which a marriage breakdown occurs, it is possible that the spouse or former spouse who has custody and control of a child after the breakdown of the marriage may be entitled to claim the equivalent-to-spouse tax credit for that child. If so, the other spouse or former spouse who might otherwise have a valid claim for the dependant tax credit in respect of the child for the period of the year prior to the breakdown of the marriage is prevented from making such a claim by paragraph 118(4)(c).

If an individual who is entitled to claim the equivalent-to-spouse tax credit for a person would be entitled, except for paragraph 118(4)(c), to claim the dependant tax credit for the same person, the individual may be able to claim an amount in addition to the

equivalent-to-spouse tax credit for that person. See ¶ 28 below for more information.

¶ 28. An individual may meet the requirements to claim the equivalent-to-spouse tax credit and the dependant tax credit in respect of the same dependant. As discussed in ¶ 27 above, in such circumstances, the individual is restricted to claiming the equivalent-to-spouse tax credit for the dependant. For 1996 and subsequent taxation years, however, it is possible that claiming the dependant tax credit for the dependant would be more beneficial. In such a case, the individual is entitled, under paragraph (e) of the description of B in subsection 118(1), to claim an amount in addition to the equivalent-to-spouse tax credit. The additional amount is equal to the excess of the dependant tax credit that the individual would otherwise have been able to claim in respect of the dependant over the equivalent-to-spouse tax credit that the individual can claim.

¶ 29. When two or more individuals are entitled to a dependant tax credit for a taxation year for the same dependant, the total of all such tax credits, because of paragraph 118(4)(e), is restricted to the dependant tax credit that would be available to one individual on the assumption that such individual was the only person entitled to a dependant tax credit for the year for that dependant. Such a situation may arise when an infirm parent who was dependent throughout the year lived for part of the year with one married child and for part of the year with another married child. In this situation, each child could have a valid dependant tax credit claim for support of the parent in the year, but the total of the dependant tax credits claimed by the two children would be restricted under paragraph 118(4)(e). If individuals cannot agree as to what portion of the tax credit each can claim, the Minister of National Revenue may, as provided by paragraph 118(4)(e), fix the portions.

¶ 30. If an individual is making support payments for the maintenance of the individual’s child, see ¶ 39 below for the effect on the dependant tax credit.

### **Age Tax Credit**

¶ 31. An individual who has attained the age of 65 years before the end of the year may claim an age tax credit, subject to the amount of the individual’s income for the year. The meaning of the term “income” is discussed in Appendix A.

¶ 32. The age tax credit is calculated by multiplying the dollar amount of \$3,482 (reduced, for 1995 and subsequent years, by an amount equal to 15% of the individual’s income for the year in excess of \$25,921) by the lowest tax rate percentage of 17%. If the individual’s income for the year is \$25,921 or less, the age tax credit is \$591.94 (17% × \$3,482). If the individual’s income is \$49,134 or more, the age tax credit is nil.

For 1994, the dollar amount of \$3,482 was reduced (subject to a maximum reduction of \$1,741) by an amount equal

to 7.5% of the amount by which the individual's income for the year exceeded \$25,921.

¶ 33. If an individual is entitled to an age tax credit but, because of insufficient income, is unable to claim all or a portion of the credit, the individual's spouse may, subject to the limitations in section 118.8, be entitled to claim all or a portion of the individual's age tax credit. More information is available at line 326, "Amounts transferred from your spouse" in the *General Income Tax Guide*.

¶ 34. If, in the year in which an individual would have attained the age of 65 years, the individual dies before attaining the age of 65 years, an age tax credit cannot be claimed on the individual's behalf.

### **Non-Resident Spouse, Child or Grandchild of an Individual Resident in Canada**

¶ 35. In order for an individual to claim the spousal tax credit for a non-resident spouse, or the dependant tax credit for a non-resident child or grandchild of the individual or the individual's spouse, it is necessary that such non-resident person be supported by or be dependent for support on the individual. The question of support or dependency is determined on the facts of each case. If the non-resident spouse, child or grandchild have enough income or assistance for a reasonable standard of living in the country in which they live, they are not considered to be supported by or be dependent for support on the individual. Also, gifts which merely enhance or supplement the already adequate lifestyle of the non-resident person do not constitute support.

The criteria for determining whether an individual may claim a personal tax credit for a spouse (see ¶s 4 to 10 above) or child or grandchild (see ¶s 23 to 30 above) who is a resident also apply for one who is a non-resident. In determining if the non-resident spouse is supported by the individual, or the non-resident child or grandchild is dependent for support on the individual, the Department will consider such factors as:

- the income of the spouse, child or grandchild from all sources;
- any support provided to the spouse, child or grandchild by government agencies of the country in which such person resides, such as pensions, medicare, housing, etc.;
- the cost of living in the particular country and the ability of the spouse, child or grandchild to provide self-support; and
- any support provided to the spouse, child or grandchild by other persons.

¶ 36. To support a personal tax credit claim for a non-resident spouse, child or grandchild, an individual has to provide (with the income tax return on which the tax credit is claimed) proof of the amounts contributed by the individual as support of the spouse, child or grandchild. Such proof will usually consist of receipts for post office or bank money orders, cancelled cheques that were payable to and

negotiated by the spouse, child or grandchild, or receipts from private agencies established for the purpose of transferring money or goods to residents of other countries.

¶ 37. Receipts for cash or goods transferred directly from an individual to a non-resident spouse, child or grandchild are not considered acceptable proof of support.

¶ 38. Documents submitted as proof of support should show:

- the name and address of the non-resident spouse, child or grandchild;
- the name of the transferor;
- the date of the transfer;
- the amount of money transferred or, where goods\* were provided, their nature and fair market value; and
- if the transfer was made to a guardian, the name and address of the guardian.

\*Goods provided have to be of such a nature as to be compatible with the concept of "support," i.e., luxury items do not qualify.

### **Individuals Making Support Payments**

¶ 39. Because of subsection 118(5), an individual cannot claim a personal tax credit in respect of the individual's spouse or a child for a taxation year after 1996 if the individual is required to pay a support amount (see below) to his or her spouse or former spouse for that person, and the individual lives separate and apart from the spouse or former spouse throughout the year because of the breakdown of their marriage. This rule applies whether or not the individual makes the support payments or gets a deduction for them. If the individual required to pay the support amount lives separate and apart from the spouse or former spouse for only part of the year (e.g., the year of marriage breakdown), the individual may claim the applicable personal tax credit for the individual's spouse or child, in respect of whom the support is required to be paid, as long as the individual does not claim a deduction for the year under paragraph 60(b) for a support amount paid to the spouse or former spouse.<sup>2</sup>

For this purpose, a support amount is generally an amount payable, under an order of a competent tribunal or a written agreement, as an allowance on a periodic basis for the maintenance of the recipient (i.e., the individual's spouse or former spouse), children of the recipient or both, where the individual and the recipient are living separate and apart because of a breakdown of their marriage. A support amount may also include an amount payable to a third party for the benefit of the spouse or former spouse, children of that person or both.

**Example 1**

John and his spouse, Karen, separated in February 1997. Their son, Mark, who was 20 years of age at the time of the separation lives with Karen. He is not wholly self-supporting because of a mental infirmity and thus must depend on others for some support. A court order dated February 15, 1997, requires John to pay Karen \$200 a month for the maintenance of Mark. These amounts qualify as support amounts for the purposes of paragraph 60(b). The order also provides that neither spouse has any obligation to pay any amount to the other spouse with respect to the maintenance of the other spouse. Prior to the separation, Karen did not work outside the home and John provided support for both Karen and Mark.

For the year of separation, John may claim, in respect of Mark, a deduction under paragraph 60(b) for the support amounts paid for Mark's maintenance or the dependant tax credit, whichever is more beneficial. John may also claim, for the year of separation, the spousal tax credit in respect of Karen provided the requirements to claim that credit are met (e.g., John must have supported Karen prior to the date of separation). For years after the year of separation, throughout which John and Karen live separate and apart because of the breakdown of their marriage, John cannot claim the dependant tax credit for Mark. This is because John is required to pay support amounts to Karen in respect of Mark. John may, however, claim a deduction under paragraph 60(b) for the support amounts paid in the year.

**Example 2**

The situation is basically the same as in Example 1, except that John and Karen separated in September 1997, and the court order was made on October 1, 1997. Since support amounts paid for the maintenance of a child under court orders or written agreements made after April 1997 are not deductible, John cannot claim a deduction for the support amounts paid in respect of Mark for the year of separation or for subsequent years. In addition, for years subsequent to the year of separation, throughout which John and Karen live separate and apart because of the breakdown of their marriage, John cannot claim the dependant tax credit for Mark. This is because John is required to pay support amounts to Karen in respect of Mark. For the year of separation, John may claim the dependant tax credit for Mark and the spousal tax credit for Karen provided the requirements to claim those credits are met.

For years before 1997, if an individual was entitled to a deduction for a taxation year under former paragraph 60(b), (c) or (c.1) for payments for the maintenance of a spouse or a child (including alimony payments), subsection 118(5) deemed that spouse or child not to be a spouse or child of the individual for the purposes of subsection 118(1). Thus the individual could not claim a personal tax credit for the year for that spouse or child. However, in the year in which a marriage breakdown occurred, the individual was entitled to claim the deduction under paragraph 60(b), (c) or (c.1) or the personal tax credit the individual would otherwise have been entitled to, whichever was more beneficial to the individual (unless the individual failed to provide support in that year prior to the commencement of such payments). The recipient of the maintenance payments was taxed thereon, regardless of the treatment accorded the payer.

**Bankruptcy**

¶ 40. *Draft legislation contained in Bill C-28, which received first reading by the House of Commons on December 10, 1997, proposes to add new section 118.95 applicable to bankruptcies that occur after April 26, 1995. Under subsection 128(2), when an individual becomes bankrupt, the calendar year in which the bankruptcy occurs is divided into two taxation years. One taxation year runs from January 1 to the day before the bankruptcy (pre-bankruptcy period), and the other begins on the day of the bankruptcy and runs to December 31 (post-bankruptcy period). If section 118.95 is enacted as currently proposed, it will ensure that, when an individual becomes bankrupt in a calendar year, the total of the amounts claimed in respect of each personal tax credit for both the pre and post-bankruptcy periods cannot be greater than the amount that could have been claimed had the individual not become bankrupt in the year.*

**Other Bulletins**

¶ 41. In connection with the subject matter of this bulletin, the current version of one or more of the following bulletins may be of interest:

- IT-193 *Taxable Income of Individuals Resident in Canada During Part of a Year*
- IT-295 *Taxable Dividends Received after 1987 by a Spouse*
- IT-326 *Returns of Deceased Persons as "Another Person"*
- IT-419 *Meaning of Arm's Length*

## Appendix A – Terminology

This Appendix discusses different terms used throughout this bulletin.

**Child** – A child of an individual, under subsection 252(1), includes:

- a person of whom the individual is the natural parent whether the person was born within or outside marriage;
- a person who is wholly dependent on the individual for support and under the individual’s custody and control in law or in fact (or was so immediately before such person reached the age of 19), but does not include a foster child for whom the foster parents receive support payments from an agency responsible for the child’s care;
- a child of the individual’s spouse;
- an adopted child of the individual; or
- a spouse of a child of the individual (e.g., a son-in-law or a daughter-in-law).

**Income** – The income of a spouse or a dependant may reduce or eliminate, where applicable, the amount of the spousal, equivalent-to-spouse or dependant tax credit that an individual may claim for that person. As well, if an individual is entitled to claim the age tax credit, the income of the individual may reduce or eliminate the amount of the age tax credit that may be claimed.

For the purposes of subsections 118(1) and (2), income must be calculated in accordance with the provisions of Division B of Part I of the Act. The income of a spouse or a dependant is the amount on the “net income” line of the spouse’s or dependant’s income tax return, or the amount that would be on that line if that person were to complete an income tax return. The income of an individual for the purpose of the age tax credit, usually, is the amount on the “net income” line of the income tax return of the individual.

Except as noted in 6 above, the income of a spouse or dependant for an entire taxation year must be taken into account in calculating the personal tax credits that an individual may claim for the year. For example, when a marriage occurs during a year, the income for the entire year (before and after the marriage) must be taken into account in calculating a spousal tax credit. In another example, a person may have been dependent on an individual who dies in the year. In this case, the income of the dependant for the entire year in which the death occurred is taken into account when calculating the personal tax credit which may be claimed on behalf of the deceased for support of the deceased’s dependant.

*Note: If draft legislation contained in Bill C-28, which received first reading by the House of Commons on December 10, 1997, is enacted as currently proposed, a capital gain realized by an individual as a result of a mortgage foreclosure or conditional sales repossession will be excluded from the individual’s income in calculating the age tax credit. This proposed amendment is applicable after 1993.*

**Mental or Physical Infirmary** – The term “mental or physical infirmity” is not specifically defined for the purposes of subsection 118(1) and, therefore, takes its ordinary

meaning. For an individual to be entitled to claim the equivalent-to-spouse tax credit or dependant tax credit for a person who is 18 years of age or over and dependent on the individual because of mental or physical infirmity, the dependency must be brought about solely by reason of the infirmity, and the degree of the infirmity must be such that it requires the person to be dependent on the individual for a considerable period of time. Temporary illness is not classed as infirmity.

**Spouse** – Before 1993, the spouse of an individual was a person to whom the individual was legally married. After 1992, the meaning of the term “spouse” is extended by paragraph 252(4)(a) to include a common-law spouse, subject to certain requirements being fulfilled. Further details can be found in the *General Income Tax Guide* for the applicable taxation year.

Under paragraph 252(4)(b), a **marriage** includes a conjugal relationship in which two individuals of the opposite sex are considered to be spouses according to paragraph 252(4)(a).

For the purposes of the equivalent-to-spouse tax credit and the dependant tax credit, when a marriage has been dissolved by death, the family relationships created by the marriage continue to exist. For example, a man or woman is considered to remain a child of his or her deceased spouse’s mother or father.

**Support** – The word “support” is not specifically defined for income tax purposes and, therefore, takes its ordinary meaning. In general terms, support involves the provision of the basic necessities of life such as food, shelter, and clothing. Support is generally something that is given voluntarily, but includes support under a legal commitment. Whether or not an individual supports another individual is a question of fact. For example, if an individual contributes amounts to a household, and such amounts can be regarded as being for the individual’s own accommodation and meals, they should not be considered to have been paid by the individual for the support of another person in the household. Take the situation where a widow and her adult son and daughter live in the same home. The son is unable to support himself because of a physical infirmity and thus must rely on others for support. The mother and daughter contribute towards the maintenance of the dwelling. In this situation, if the daughter only contributes amounts that can be regarded as being for her own accommodation and meals, no amount should be considered to have been paid by her for the support of her brother and she cannot claim the dependant tax credit for him. In another example, a person may be confined to a hospital for all or substantially all of the year because of mental or physical infirmity and the cost of hospitalization is paid by a provincial government, board or commission under a provincial hospital plan. The latter fact, in itself, does not necessarily mean that the person was not supported by an individual. If expenses such as clothing, comforts, and medical and hospital plan premiums were paid by the individual or the individual supported that person on those occasions when the latter was able to be out of hospital, then, ordinarily, it is recognized that the individual supported that person.



## Appendix B – Summary of Personal Tax Credits

The following chart summarizes the basic eligibility requirements of, and the calculations for, the personal tax credits which may be claimed by an individual in determining taxes payable for a taxation year. Unless otherwise indicated, the dollar amounts, income limits, and tax rate percentage used in the chart apply for the 1992 to 1997 taxation years. For other taxation years, refer to the General income tax package for the particular year. For purposes of illustration, the tax credits have been rounded to the nearest dollar.

Tax Credit	Basic eligibility requirements	Calculation of tax credit	Reference in bulletin
Basic Personal	Individuals	$\$6,456 \times 17\% = \$1,098$	¶ 3
Spousal	<p>An individual who, at any time in the year:</p> <ul style="list-style-type: none"> <li>• is married;</li> <li>• supports his or her spouse; and</li> <li>• is not living separate and apart from that spouse because of a breakdown of their marriage.</li> </ul> <p>An individual cannot claim the spousal tax credit in respect of more than one person in a taxation year.</p>	* $\$5,380 \times 17\% = \$915$	¶ 4 to ¶ 10
Equivalent-to-spouse	<p>An individual who does not claim a spousal tax credit and who, at any time in the year:</p> <ul style="list-style-type: none"> <li>• was not married, or was married but did not support nor live with his or her spouse and was not supported by his or her spouse;</li> <li>• lived in and maintained (alone or jointly) a residence; and</li> <li>• supported a qualified relative in the residence.</li> </ul> <p>An individual cannot claim the equivalent-to-spouse tax credit in respect of more than one person in a taxation year.</p> <p>The equivalent-to-spouse tax credit cannot be claimed by more than one individual for the same person or for the same residence.</p> <p>If an individual is entitled to claim the equivalent-to-spouse tax credit for a person and would otherwise be entitled to claim the dependant tax credit for the same person, the individual may be able to claim an amount in addition to the equivalent-to-spouse tax credit.</p>	* $\$5,380 \times 17\% = \$915$	¶ 11 to ¶ 22
Dependant	<p>An individual with a dependant who was:</p> <ul style="list-style-type: none"> <li>• 18 years of age or over before the end of the year; and</li> <li>• dependent on the individual because of mental or physical infirmity.</li> </ul> <p>An individual can claim the dependant tax credit in respect of more than one person in a taxation year.</p> <p>An individual cannot claim a dependant tax credit in respect of a person for whom the individual or another person is entitled to claim the equivalent-to-spouse tax credit.</p>	** $\$2,353 \times 17\% = \$400$	¶ 23 to ¶ 30

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	If an individual is entitled to claim the equivalent-to-spouse tax credit for a person and would otherwise be entitled to claim the dependant tax credit for the same person, the individual may be able to claim an amount in addition to the equivalent-to-spouse tax credit.		
Age	An individual who is 65 years of age or over.	***\$3,482 × 17% = \$592	¶ 31 to ¶ 34
<p>* Reduce this amount by the income for the year of the person being claimed in excess of \$538.</p> <p>** Reduce this amount by the income for the year of the person being claimed in excess of \$4,103. For the 1992 to 1995 taxation years, the dollar amount for the dependant tax credit was \$1,583 and the income limitation was \$2,690.</p> <p>*** For 1994, reduce this amount (subject to a maximum reduction of \$1,741) by an amount equal to 7.5% of the amount by which the individual's income for the year exceeds \$25,921. Starting in 1995, reduce the dollar amount of \$3,482 by an amount equal to 15% of the individual's income for the year in excess of \$25,921.</p>			

## *Explanation of Changes*

### **Introduction**

The purpose of the *Explanation of Changes* is to give the reasons for the revisions to an interpretation bulletin. It outlines revisions that we have made as a result of changes to the law, as well as changes reflecting new or revised departmental interpretations.

### **Reasons for Revisions**

This bulletin is being revised to reflect amendments to the *Income Tax Act* enacted by S.C. 1994, c. 7, Schedule VII (1992 c. 48—formerly Bill C-80); S.C. 1994, c. 7, Schedule VIII (1993 c. 24—formerly Bill C-92); S.C. 1995, c. 3 (formerly Bill C-59); and S.C. 1997, c. 25 (formerly Bill C-92). The revision also contains notes regarding proposed amendments to the *Income Tax Act* contained in Bill C-28 which received first reading by the House of Commons on December 10, 1997. The comments in this bulletin are not affected by any other draft legislation released before January 1, 1998.

Certain administrative positions pertaining to personal tax credits have been codified as a result of the amendments to the *Income Tax Act* enacted by S.C. 1997, c. 25 (formerly Bill C-92). For more information, see the explanation of change below for ¶s 9, 11, 19, and 39 of the bulletin.

### **Legislative and Other Changes**

The structure of IT-513R differs considerably from that of the former bulletin. Therefore, the explanations given below do not refer to the paragraph numbers of the former bulletin.

¶ 2 explains the basic calculation for personal tax credits and outlines the information required to perform the calculation.

¶ 3 provides information relevant to the basic personal tax credit. The dollar amount used in the calculation has been revised to recognize the increases provided by section 117.1.

¶s 4 to 10 provide information relevant to the spousal tax credit. Changes made to the information relevant to the spousal tax credit include:

- ¶ 7 has been added to provide information concerning the election available to individuals under subsection 82(3); and
  - ¶ 9 reflects the amendment to paragraph (b) of the description of B in subsection 118(1) which confirms, for the 1997 and subsequent taxation years, the Department's long-standing position of allowing an individual who is entitled to claim the spousal tax credit and would otherwise be entitled to claim the equivalent-to-spouse tax credit to claim whichever tax credit is more beneficial.
- ¶s 11 to 22 provide information relevant to the equivalent-to-spouse tax credit. Changes made to the information relevant to the equivalent-to-spouse tax credit include:
- recognition of the extended meaning of the term "spouse" to include certain common-law spouses. For 1993 and subsequent years, such common-law spouses are eligible for the spousal tax credit and, therefore, can no longer claim the equivalent-to-spouse tax credit;
  - ¶s 11 and 19 reflect the amendment to paragraph (b) of the description of B in subsection 118(1) which confirms, for the 1997 and subsequent taxation years, the Department's long-standing position of allowing an individual who is entitled to claim the spousal tax credit and would otherwise be entitled to claim the equivalent-to-spouse tax credit to claim whichever tax credit is more beneficial;
  - ¶ 12 reflects the increases, under section 117.1, in the dollar amount and income limit used in the calculation of the equivalent-to-spouse tax credit;
  - the detailed discussion of the terms "connected by blood relationship," "connected by marriage," and "connected by adoption" has been deleted, and a cross-reference in ¶ 13 to the current version of IT-419, *Meaning of Arm's Length*, has been added;
  - ¶ 16 has been added to clarify the situation where an individual supports a qualified relative who lives away from the individual's residence while attending school;
  - ¶ 17 reflects the withdrawal of the position set out in the last sentence of former ¶ 12, for the 1997 and subsequent taxation years; and
  - ¶ 20 reflects the amendment to add new paragraph (e) to the description of B in subsection 118(1), applicable for the 1996 and subsequent taxation years.
- ¶s 23 to 30 provide information relevant to the dependant tax credit. Changes made to the information relevant to the dependant tax credit include:
- ¶ 23 reflects the amendment to paragraph (d) of the description of B in subsection 118(1) to provide that the dependant tax credit apply only where the dependant is 18 years of age or over and is mentally or physically infirm, applicable for the 1993 and subsequent taxation

years. For years before 1993, a dependant tax credit was available where the dependant was under 18 years of age at any time in the year, or was 18 years of age or over throughout the year and was mentally or physically infirm;

- ¶ 24 reflects the increases, under section 117.1, in the dollar amount and income limit used in the calculation of the dependant tax credit, and it reflects the amendment to paragraph (d) of the description of B in subsection 118(1) to increase the maximum dependant tax credit, applicable for the 1996 and subsequent taxation years;
- ¶ 25 reflects the amendment to subsection 252(2), applicable for 1993 and subsequent years. Subsection 252(2) provides extended meanings for several terms used throughout the Act, such as “parent,” “brother,” and “sister.” The amendment changes the existing definitions and adds new definitions. The amendment is as a result of the extended definition of the term “spouse” to include certain common-law spouses;
- recognition of the repeal of paragraph 118(4)(d), applicable for the 1993 and subsequent taxation years. Paragraph 118(4)(d) provided that no amount could be claimed as a dependant tax credit for a person in respect of whom family allowance had been paid in the year, except to the extent of the proportion of the family allowance paid in the year for that person that was included in the individual’s income. The family allowance was replaced by the child tax benefit; and
- ¶ 28 reflects the amendment to add new paragraph (e) to the description of B in subsection 118(1), applicable for the 1996 and subsequent taxation years.

¶s 31 to 34 provide information relevant to the age tax credit.

¶ 32 reflects the increases, under section 117.1, in the dollar amount used in the calculation of the age tax credit. It also reflects the following amendments to subsection 118(2):

- For the 1995 and subsequent taxation years, the base amount upon which an individual’s age tax credit is calculated is reduced by 15% of the amount by which the individual’s income for the year exceeds \$25,921; and
- For 1994, the \$3,482 base amount is reduced (subject to a maximum reduction of \$1,741) by 7.5% of the amount by which the individual’s income for the year exceeds \$25,921.

¶s 35 to 38 provide information relevant to individuals resident in Canada who have a non-resident spouse, child or grandchild. The reference to Form T1E-NR, *Declaration of Support of Non-Resident Dependent Spouse and Children*, has been deleted as this form has been cancelled. The information in ¶ 38 has been expanded to advise individuals that if the transfer of money or goods, for the support of the non-resident spouse, child or grandchild, was made to a guardian, the name and address of the guardian should be provided on the documents that are submitted as proof of support for the transfer.

¶ 39 provides information relevant to individuals making support payments. It reflects the amendment to subsection 118(5), applicable after 1996. Subsection 118(5) was amended as a result of the new rules for the tax treatment of child support. Generally, under amended subsection 118(5), an individual’s eligibility to claim a personal tax credit for a person in respect of whom the individual pays support is based on whether or not the individual is required to pay support to the individual’s spouse or former spouse for that person. It is no longer based on whether or not the individual is entitled to a deduction for such support. The amendment to subsection 118(5) also confirms the Department’s long-standing position of allowing an individual, in the year in which a marriage breakdown occurs, to claim a deduction for maintenance payments made in the year or the personal tax credit the individual would otherwise be entitled to, whichever is more beneficial.

¶ 40 reflects the proposed addition of new section 118.95, applicable to bankruptcies occurring after April 26, 1995.

¶ 41 has been added to list related bulletins.

Appendix A has been created to provide a discussion of terms frequently used throughout the bulletin.

- The discussion of the term “income” recognizes the following changes:
  - the amendment to subsection 118(2) which provides that the age tax credit be subject to the individual’s income for the year;
  - prior to 1992, when calculating the income of the spouse or the dependant for the purposes of the personal tax credits, individuals were required to use the amount on the “net income” line of the income tax return of the spouse or the dependant and add thereto certain amounts (for example, guaranteed income supplement and worker’s compensation payments). For 1992 and subsequent years, these amounts are included in the amount on the “net income” line of the income tax return. As a result, in calculating the income of the individual or the individual’s spouse or dependant for purposes of the personal tax credits, it is no longer necessary to add these amounts to the amount on the “net income” line; and
  - the proposed amendment to subsection 118(2), applicable after 1993, to provide that a capital gain realized by an individual as a result of a mortgage foreclosure or conditional sales repossession be excluded from the individual’s income in calculating the age tax credit.
- The discussion of the term “mental or physical infirmity” has been revised. In former ¶ 33 of IT-513, for a person to be regarded as mentally or physically infirm, the degree of infirmity had to be such that it prevented the person from being gainfully employed during a considerable period of time.

- The discussion of the term “spouse” is based on subsection 252(4), which extends the meaning of “spouse” to include certain common-law spouses, for 1993 and subsequent years.
- The discussion of the term “support” has been expanded to provide additional information pertaining to what constitutes “support” for the purposes of the personal tax credits.

Appendix B has been added as a quick reference tool which outlines the basic eligibility requirements and calculations for the personal tax credits discussed in this bulletin.

We have made a number of other changes to improve the overall clarity and readability of the bulletin.

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<sup>1</sup> Added on May 25, 2004

<sup>2</sup> Correction, May 25, 2004