Income Tax Folio S1-F4-C2, Basic Personal and Dependant Tax Credits (for 2017 and subsequent tax years)

Series 1: Individuals

Folio 4: Personal Credits

Chapter 2: Basic Personal and Dependant Tax Credits (for 2017 and subsequent tax years)

Summary

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

This Chapter discusses the eligibility requirements and the amounts and calculations for the basic personal and dependant tax credits (which are collectively referred to as the personal tax credits) under subsection 118(1) including:

- the basic personal tax credit
- the spouse or common-law partner tax credit
- the eligible dependant tax credit
- the Canada caregiver tax credit (adult) (also referred to as the Canada caregiver tax credit for other infirm dependants 18 years of age or older)
- the Canada caregiver tax credit (child) (also referred to as the Canada caregiver tax credit for an infirm child under 18 years of age)

Bill C-44 was passed by Parliament on June 22, 2017. Because it made changes to simplify these personal tax credits for tax years after 2016, this Chapter has been added to reflect these changes. For tax years before 2017, please refer to Income Tax Folio S1-F4-C1, Basic Personal and Dependant Tax Credits (for 2016 and prior tax years).

Information on the medical expense tax credit, disability tax credit, qualifying student and the education and textbook tax credits, and tuition tax credit can be found in other Folio chapters. Information on the remaining tax credits for individuals can be found in the General income tax and benefit package for the relevant tax year.

The Canada Revenue Agency (CRA) issues income tax folios to provide a summary of technical interpretations and positions regarding certain provisions contained in income tax law. Due to their technical nature, folios are used primarily by tax specialists and other individuals who have an interest in tax matters. While each paragraph in a chapter of a folio

may relate to provisions of the law in force at the time it was written (see the Application section), the information provided is not a substitute for the law. The reader should, therefore, consider the chapter's information in light of the relevant provisions of the law in force for the particular tax year being considered.

The CRA may have published additional guidance and detailed filing instructions on matters discussed in this Chapter. See the CRA forms and publications web page for this information and other topics that may be of interest.

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Discussion and interpretation

Calculation of credits

2.1 Subsection 118(1) sets out the formulas for calculating the basic personal tax credit, the spouse or common-law partner tax credit, the eligible dependant tax credit, and the Canada caregiver tax credit (adult) and Canada caregiver tax credit (child).

2.2 The personal tax credits for an individual are calculated by multiplying the total of the applicable dollar amounts for each of the personal tax credits by the lowest tax rate referred to in subsection 117(2). The lowest tax rate is 15% for years after 2006. The dollar amounts of the different personal tax credits are set out in the relevant provisions of subsection 118(1). Where applicable, the amounts are reduced by the income for the year (in excess of certain limits) of the spouse or common-law partner or the dependant.

Annual indexation

2.3 The dollar amounts and the income limits for each of the personal tax credits are subject to annual indexation. Basically, under section 117.1, these amounts will be increased to reflect inflation based on the increase, if any, in the Consumer Price Index. The CRA's indexation chart provides these indexed amounts for each of the personal tax credits for the last four tax years.

Relationships

2.4 In many cases, the entitlement to, or the calculation of, a credit is linked to an individual's relationship to another person. For this reason, it is important to understand how these relationships are defined for income tax purposes.

2.5 Subsection 252(1) provides that a **child** of an individual includes:

a. a person of whom the individual is the legal parent – paragraph 252(1)(a);
b. a person who is wholly dependent on that individual for support if, before reaching 19 years of age, the person is or was under the individual's custody and control, in law or in fact – paragraph 252(1)(b);
c. a child of the individual's spouse or common-law partner (that is, a stepchild) – paragraph 252(1)(c); and
d. a spouse or common-law partner of the individual's child (that is, a son-in-law or a daughter-in-law), as well as the spouse or common-law partner of a stepchild or of a person considered to be the individual's child as described in ¶2.5(b) – paragraph 252(1)(e).

2.6 Under paragraph 252(2)(a), a **parent** of an individual includes:

- a legal parent or a step-parent of the individual;
- a person of whom the individual is or was considered to be a child, as described in ¶2.5(b); or
- a legal parent or a step-parent of the individual's spouse or common-law partner. This would include a person of whom the individual is or was a child as described in ¶2.5(b).

2.7 A **legal parent** is generally the individual who is considered a parent by virtue of the birth of the child. Should the child be adopted, then the adoptive parents would be the legal parents. A legal parent is usually determined under provincial or territorial law and recorded in a birth or adoption certificate.

2.8 Under paragraph 252(2)(d), a **grandparent** of an individual includes a person who is:

- the grandfather or grandmother of the individual's spouse or common-law partner; or
- the spouse or common-law partner of the individual's grandfather or grandmother.

2.9 Paragraph 252(2)(b) states that a **brother** of an individual includes a person who is:

- the brother of the individual's spouse or common-law partner; or
- the spouse or common-law partner of the individual's sister.

It does not include the spouse or common-law partner of the sister of the individual's spouse or common-law partner. It also does not include the spouse or common-law partner of the brother (in the case of a same-sex relationship) of the individual's spouse or common-law partner.

2.10 Paragraph 252(2)(c) provides that a **sister** of an individual includes a person who is:

- the sister of the individual's spouse or common-law partner; or
- the spouse or common-law partner of the individual's brother.

It does not include the spouse or common-law partner of the brother of the individual's spouse or common-law partner. It also does not include the spouse or common-law partner of the sister (in the case of a same-sex relationship) of the individual's spouse or common-law partner.

2.11 Under paragraph 252(2)(e), an **aunt** or **uncle** of an individual includes the spouse or common-law partner of the individual's aunt or uncle, as the case may be. In addition, paragraph 252(2)(g) states that a **niece** or **nephew** of an individual includes the niece or nephew of the individual's spouse or common-law partner as the case may be.

2.12 A **spouse** of an individual means a person to whom the individual is legally married.

2.13 A **common-law partner** in respect of an individual is defined in subsection 248(1) and at a particular time is:

- a person who at that time cohabits in a conjugal relationship with the individual and has done so throughout a continuous period of at least 12 months that ends at that time; or
- a person who at that time cohabits in a conjugal relationship with the individual and is the parent of a child of the individual for one of the following reasons:
  - the person is the legal parent of the child; or
  - the child is wholly dependent on the person for support and the person has, in law or in fact, the custody and control of the child (or did immediately before the child turned 19 years of age).

2.14 Under the definition of **common-law partner**, once individuals begin to cohabit in a conjugal relationship they are deemed to continue cohabiting in that conjugal relationship until they live separate and apart for a period of 90 consecutive days because of a breakdown of their conjugal relationship. After this 90-day period has passed, the effective day of the change of marital status, to separated, is the date the individuals started living separate and apart.

Example 1

Lucie and Richard were living as common-law partners. On November 1, 2018, Lucie moved out of their residence and they began living separate and apart due to a breakdown in their relationship. If the couple continues to live separate and apart for 90 consecutive days, the effective day of the separation is November 1, 2018. If they reconcile prior to the end of the 90 day period, they would not be considered separated in that period.

2.15 For the purposes of the personal tax credits under subsection 118(1), when a marriage or common-law partnership has been dissolved by death, the family relationships created by the marriage or common-law partnership are considered to 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. However, if a marriage or common-law partnership ends for a reason other than death, such as divorce, annulment, or separation, the family relationships created by the marriage or common-law partnership cease to exist.

Common terminology for the personal tax credits

2.16 The **income** of a spouse or common-law partner or of a dependant may reduce or eliminate the amount of a personal tax credit that an individual may claim in respect of that person. For the purposes of subsection 118(1), income must be calculated in accordance with the provisions of Division B of Part I of the Act. The income of a spouse, or common-law partner or of a dependant is generally the amount on the net income line of their income tax and benefit return, or the amount that would be on that line if that person were to complete a return. The exception to this is provided in paragraph 118(4)(a.2), which requires that, for 2018 and subsequent tax years, income is computed as if no amount were deductible for split income under paragraph 20(1)(ww).

2.17 Generally, when calculating a personal tax credit in respect of a spouse or common-law partner or dependant, their income for the entire tax year is considered. For example, in the year of marriage, the spouse's income for the entire year (before and after the start of the marriage) must be taken into account in calculating a spouse or common-law partner tax credit. The exception to this is for situations involving a breakdown in a relationship for purposes of claiming the spouse or common-law partner tax credit, as discussed in ¶2.33.

2.18 The term **support** is not specifically defined in the Act. Therefore, it has 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.

Example 2

Cheryl is confined to a hospital for most of the year because of a physical infirmity. The cost of Cheryl's hospitalization is paid by the provincial government under a provincial hospital plan. All of Cheryl's additional expenses, such as for clothing, comforts, and medical and hospital plan premiums, are paid for by her husband Michel. Michel pays for all of Cheryl's expenses on those occasions when she was able to be out of the hospital. Although the cost of her hospitalization is paid for under her provincial hospital plan, it would be recognized that Michel supports Cheryl during the year, both when she is in the hospital, by paying for her additional expenses, and when she is out of the hospital, by paying for all of her expenses.

2.19 Whether an individual supports another individual is a question of fact. A person is generally **dependent for support on an individual** if the individual has actually supplied necessary maintenance, or the basic necessities of life to the person on a regular and consistent basis. The basic necessities of life are generally understood to include food, shelter and clothing.

2.20 An individual might contribute amounts to a household which can be regarded as being for their own accommodation and meals. In this situation, the amounts should not be considered to have been paid by the individual for the support of another person in the household.

Example 3

Elise owns a home and lives with her adult children, François and Marcel. Marcel is unable to support himself because of a mental infirmity, and has to rely on others for support. François pays rent to Elise to cover François's share of household expenses (such as for his room, and utilities) and regularly contributes amounts to cover the cost of his own groceries. In this example, François only contributes amounts that can be regarded as being for his own accommodation and meals. Therefore, no amount should be considered to have been paid by François for the support of Marcel. Marcel is not dependent for support on François.

2.21 The term **mental or physical infirmity** is not specifically defined for the purposes of subsection 118(1). Therefore, it takes its ordinary meaning. For a person to be dependent on an individual because of mental or physical infirmity, the dependency must be brought about solely by reason of the infirmity. 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 or injury is not considered to be an infirmity for purposes of the personal tax credits.

2.22 The **Canada caregiver tax credit** replaces the caregiver tax credit, the infirm dependant tax credit and the family caregiver tax credit for the 2017 and subsequent tax years. The Canada caregiver tax credit may be claimed for certain dependants with a mental or physical infirmity and consists of:

- an amount for certain dependants 18 years of age or older, referred to in this Chapter as the Canada caregiver tax credit (adult) and
- an amount for a child under 18 years of age, referred to in this Chapter as the Canada caregiver tax credit (child) (formerly family caregiver tax credit).

2.23 An additional **Canada caregiver amount** is available as part of the calculation to determine the spouse or common-law partner tax credit (see ¶2.28) and the eligible dependant tax credit (see ¶2.43) in respect of a spouse or common-law partner or an eligible dependant with a mental or physical infirmity. The requirements for claiming this additional amount are discussed in each of the specific tax credit sections in this Chapter.

2.24 The term **self-contained domestic establishment** is defined in subsection 248(1). It 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. Generally, a self-contained domestic establishment is a living unit with restricted access that contains a kitchen, bathroom and sleeping facilities. A room (or rooms) in a hotel or boarding house would not ordinarily be a self-contained domestic establishment.

Basic personal tax credit

2.25 An individual is entitled to a basic personal tax credit under paragraph (c) of the description of B in subsection 118(1). This credit is calculated using the formula:

A × B

where:

A is the Basic personal amount

B is the lowest tax rate (15% for years after 2006).

Spouse or common-law partner tax credit

2.26 An individual may be entitled to claim a spouse or common-law partner tax credit under paragraph (a) of the description of B in subsection 118(1). The credit is available if at any time in the year the individual:

- is married or is in a common-law partnership;
- supports their spouse or common-law partner; and
- is not living separate and apart from that spouse or common-law partner because of a breakdown of their marriage or common-law partnership.

2.27 The spouse or common-law partner tax credit is calculated using the following formula:

(C – D) × E

where:

C is the applicable maximum spouse or common-law partner amount (see ¶2.28)

D is the amount, if any, of the spouse or common-law partner's income for the year (see ¶2.29); and

E is the lowest tax rate (15% for years after 2006).

2.28 The maximum spouse or common-law partner amount available to the individual depends on whether the individual is eligible for the Canada caregiver amount. The Canada caregiver amount is available to the individual as part of the spouse or common-law partner tax credit when an individual's spouse or common-law partner is dependent on the individual because of a mental or physical infirmity. If an individual is eligible to claim the Canada caregiver amount, the individual would use the Spouse or common-law partner amount (maximum if eligible for the Canada caregiver amount for a dependent spouse or common-law partner) for variable C in the formula described in ¶2.27. Otherwise the individual would use the Spouse or common-law partner amount (maximum). An example of the calculation can be found in Example 5.

2.29 An individual's claim for the spouse or common-law partner tax credit will be reduced if the spouse or common-law partner has income for the year. It will be eliminated when the income is equal to or greater than the spouse or common-law partner amount for the year used in variable C in the formula described in ¶2.27.

2.30 Either spouse or common-law partner (but not both) may claim a spouse or common-law partner tax credit in respect of the other, provided the spouse or common-law partner making the claim supported the other.

Changes to relationship status

2.31 The requirements for claiming the spouse or common-law partner tax credit only need to be met at some point in the year. This means that the credit may be available in a year in which an individual marries or becomes a common-law partner. Similarly, the credit may be available in a year in which a breakdown in a marriage or common-law partnership occurs.

2.32 It should be noted however, that if the individual is required to pay a support amount in respect of a former spouse or common-law partner in the year of the breakdown of a relationship, the individual must choose whether to claim the spouse or common-law partner tax credit, or the deductible support amounts for the year. The individual can claim whichever is more beneficial. Income Tax Folio S1-F3-C3, Support Payments provides information about support amounts.

2.33 Where two individuals are living separate and apart at the end of a year because of a breakdown of their marriage or common-law partnership that occurred in the year, only the income for the period of the year before the breakdown is included in the calculation of the spouse or common-law partner tax credit. In all other cases, the income of the spouse or common-law partner for the entire tax year must be taken into account in calculating the spouse or common-law partner tax credit.

2.34 The determination of whether individuals live separate and apart as a result of a breakdown of their relationship is a question of fact. Where a separation is for reasons other than a breakdown of the relationship, the individuals would not be considered to be living separate and apart for purposes of the spouse and common-law partner tax credit. This may be the case, for example, where there is a separation for attendance at school or for work, or where there is an involuntary separation such as for medical reasons or incarceration.

Taxable dividends received by a spouse or common-law partner

2.35 Under subsection 82(3), an individual can elect to have all taxable dividends from taxable Canadian corporations received by their spouse or common-law partner included in the individual's income for the year. In order to make this election, the inclusion of the dividends in the individual's income must result in an increase in the individual's spouse or common-law partner tax credit. If the individual elects to include these dividends in their income, the dividends are excluded from their spouse or common-law partner's income. This allows the individual to maximize the spouse or common-law partner tax credit and dividend tax credit for the year. Subsection 82(3) is discussed in Interpretation Bulletin IT-295R4, Taxable Dividends Received after 1987 by a Spouse.

Limitations affecting the spouse or common-law partner tax credit

2.36 Paragraph 118(4)(a) prevents an individual from claiming a spouse or common-law partner tax credit for more than one person in a tax year.

2.37 In addition, paragraph (b) of the description of B in subsection 118(1) prevents an individual from claiming the eligible dependant tax credit for the year if they claim a spouse or common-law partner tax credit in that year. An individual may choose to claim either the spouse or common-law partner tax credit or the eligible dependant tax credit in a tax year if the requirements for both credits are met. The individual can claim whichever is more beneficial for the year.

Example 4

Khalid and Sabina are married and have a ten year old son, Samir. In June 2018, Khalid and Sabina separate, and Samir lives with Sabina after the separation. Sabina meets the requirements for claiming the spouse or common-law partner tax credit in respect of Khalid for the period of the year before the separation. Sabina also meets the requirements for the eligible dependant tax credit in respect of Samir for the period of the year after the separation.

In this case, Sabina can claim whichever of the two credits is more beneficial to her for the year. Whichever credit she chooses to claim, she will be unable to claim the other credit for that year.

2.38 If an individual is entitled to claim a spouse or common-law partner tax credit for a person, paragraph 118(4)(c) prevents any individual from claiming the Canada caregiver tax credit (adult) for that same person for the tax year. However, an individual may be able to claim an additional tax credit under paragraph (e) of the description of B in subsection 118(1) as well as the spouse or common-law partner tax credit. This additional credit may be claimed if the restriction in paragraph 118(4)(c) results in the spouse or common-law partner tax credit being less beneficial to the individual compared to claiming the Canada caregiver tax credit (adult) for that same person. This would occur when the dependant's income is enough to reduce the individual's spouse or common-law partner tax credit below the amount of Canada caregiver credit that would be available.

Example 5

Ali and Taylor are married. As a result of an accident that occurred a number of years ago, Ali is dependent on Taylor for support. Ali had net income of $9,500 in 2018 that was earned from part-time employment.

Taylor meets the requirements for the spouse or common-law partner tax credit and the Canada caregiver tax credit (adult) with respect to Ali.

Because Taylor is entitled to claim the spouse or common-law partner tax credit for the 2018 tax year, paragraph 118(4)(c) prevents her from claiming the Canada caregiver tax credit (adult) in respect of Ali for the 2018 tax year.

Taylor's **spouse or common-law partner tax credit** is calculated as follows:

(Spouse or common-law partner amount (maximum if eligible for the Canada caregiver amount for a dependent spouse or common-law partner) – Ali's net income) × the lowest tax rate for the year

= ($13,991 − $9,500) × 15%

= $674

To determine whether Taylor is entitled to an amount in addition to the spouse or common-law partner tax credit, she must know what she could have claimed for the Canada caregiver tax credit (adult).

Taylor's **Canada caregiver tax credit (adult)** would have been calculated as follows:

Canada caregiver amount for other infirm dependants age 18 or older (maximum amount) × lowest tax rate for the year

= $6,986 × 15%

= $1,048

(Note that Ali's income does not exceed the Net income threshold for Canada caregiver amount. Therefore, Ali's income does not reduce the calculation for the Canada caregiver amount for other infirm dependants age 18 or older (maximum amount) for Taylor.)

Additional tax credit

Paragraph 118(4)(c) prevents Taylor from claiming the Canada caregiver tax credit (adult). Therefore, she can claim the additional tax credit, calculated as follows:

Canada caregiver tax credit (adult) – spouse or common-law partner tax credit

= $1,048 – $674

= $374

Total tax credit

The total tax credit Taylor can claim in respect of Ali is therefore $1,048 (spouse or common-law partner credit of $674 plus the additional tax credit of $374).

2.39 There are certain restrictions in subsection 118(5) that can prevent an individual from claiming a personal tax credit under subsection 118(1) (such as the spouse or common-law partner tax credit) for a particular person for a tax year. These restrictions apply if the individual is required to pay a support amount for that person to his or her current or former spouse or common-law partner. For an exception to these restrictions in the year of a breakdown in a marriage or common-law partnership, refer to ¶2.31 and 2.32. For more information regarding these restrictions, refer to ¶3.73 to 3.77 of Income Tax Folio S1-F3-C3.

Eligible dependant tax credit

2.40 An individual may be entitled to claim an eligible dependant tax credit under paragraph (b) of the description of B in subsection 118(1). This credit is available if the individual does not claim a spouse or common-law partner tax credit in the tax year and if, at any time in the year, the individual:

(i) is either:

- unmarried and did not live in a common-law partnership; or
- married or in a common-law partnership but did not support or live with their spouse or common-law partner and was not supported by their spouse or common-law partner; and

(ii) alone, or jointly with one or more other persons, maintains a self-contained domestic establishment where the individual lives and actually supports an eligible dependant.

2.41 For the purposes of this credit, an eligible dependant is a person who, at the time referred to in ¶2.40(ii), is:

- resident in Canada (this residency requirement does not apply if the person is a child of the individual);
- wholly dependent for support on the individual, or the individual and the other person or persons as the case may be; and
- either:
    - the individual's parent or grandparent by blood, marriage, common-law partnership, or adoption; or
    - the individual's child, grandchild, brother, or sister, by blood, marriage, common-law partnership, or adoption and is either:
        - under 18 years of age; or
        - dependent on the individual by reason of a mental or physical infirmity.

2.42 The eligible dependant tax credit is calculated using the following formula:
(F − G) × H

where:

F is the applicable maximum amount for an eligible dependant (see ¶2.43 to 2.45);

G is the amount, if any, of the eligible dependant's income for the year (see ¶2.46); and

H is the lowest tax rate (15% for years after 2006).

2.43 The maximum amount available to an individual (variable F) depends on whether the individual is eligible for the Canada caregiver amount in respect of the eligible dependant. The Canada caregiver amount is available as part of the eligible dependant tax credit when the eligible dependant is either:

i. 18 years of age or older at the end of the tax year and is at any time in the year dependent on the individual because of a mental or physical infirmity or
ii. under 18 years of age at the end of the tax year (subject to ¶2.45), and, by reason of mental or physical infirmity, is likely to be, for a long and continuous period of indefinite duration, dependent on others for significantly more assistance in attending to the dependent person's personal needs and care, when compared to persons of the same age, and is so dependent on the individual at any time in the year.

2.44 If an individual is eligible to claim the Canada caregiver amount, the individual would use the Amount for an eligible dependant (maximum if eligible for the Canada caregiver amount for a dependant) for variable F in the formula described in ¶2.42. Otherwise, the individual would use the Amount for an eligible dependant (maximum).

2.45 If the eligible dependant is under 18 years of age and is a child of the individual who meets the requirements of the Canada caregiver tax credit (child), the individual would be prevented from claiming the Canada caregiver amount as part of the eligible dependant tax credit for that child. Instead, a Canada caregiver tax credit (child) would be claimed for that child by the individual in the tax year.

2.46 An individual's claim for the eligible dependant tax credit will be reduced if the eligible dependant has income for the year. It will be eliminated when the income is equal to or greater than the amount for an eligible dependant used in variable F for the year.

Support of an eligible dependant

2.47 For an individual to claim the eligible dependant tax credit, a person must be **wholly dependent for support** on the individual. As discussed in ¶2.18, **support** involves providing the basic necessities of life, such as food, shelter, and clothing. Wholly dependent for support on the individual generally means the person is financially dependent on the individual such that the individual provides almost entirely for the person's well-being. For example, in order for a child to be considered wholly dependent for support on a parent, the parent must be responsible for the usual day-to-day activities of raising the child, such as ensuring the child attends school, and providing necessities such as food, shelter and clothing.

2.48 Where an individual receives support payments from a government agency responsible for a person's care, in order to care for that person, the person is generally not considered to be wholly dependent for support on the individual. For example, a foster child is not considered to be wholly dependent for support on a foster parent who receives payments from an agency responsible for the child's care.

2.49 A child born alive (even if alive only briefly after birth) is considered to be dependent for support on an individual. An individual may claim the eligible dependant tax credit for a newborn child provided the other requirements to claim that credit are met.

2.50 An individual may support an eligible dependant who moves away to attend school. If the eligible dependant ordinarily lives with the individual during the year when not in school, and the other requirements to claim the eligible dependant tax credit are met, the individual may claim the eligible dependant tax credit for that person.

Limitations affecting the eligible dependant tax credit

2.51 Paragraph 118(4)(a) prevents an individual from claiming an eligible dependant tax credit in a tax year for more than one person.

2.52 As noted in ¶2.37, an individual cannot claim the eligible dependant tax credit for the year if they claim a spouse or common-law partner tax credit in that year. An individual may choose to claim either the spouse or common-law partner tax credit or the eligible dependant tax credit in a tax year if the requirements for both credits are met. The individual can choose whichever is more beneficial to claim for the year.

Example 6

Gregory and Lisa have been married for five years, and have a three-year-old daughter Rachel. Gregory and Lisa separate during May of the current year, and Gregory has full custody of Rachel after the separation. No support amounts are paid by either individual. Gregory and Lisa both have income in excess of the spouse or common-law partner amount for the year.

Gregory is eligible to claim the spouse or common-law partner tax credit in respect of Lisa for the portion of year that they were together. Gregory would also be eligible to claim the eligible dependant tax credit in respect of Rachel for the period after his separation when he has custody of Rachel.

However, because Lisa’s income for the portion of the year that they were together is in excess of the spouse or common-law partner amount for the year, the actual credit that Gregory would be able to claim for the spouse or common-law partner tax credit would be zero.

Therefore, Gregory chooses to claim the eligible dependant tax credit in respect of Rachel as he would be able to claim the full amount of this credit for the year.

2.53 Paragraph 118(4)(a.1) also prevents an individual from claiming an eligible dependant tax credit in a tax year for a person if:

- another individual is claiming the spouse or common-law partner tax credit for that same person, and
- that person and the other individual are married or in a common-law partnership throughout the year and are not living separate and apart because of a breakdown of their relationship.

Example 7

Stan is single and has no children of his own. Stan’s retired parents, Clark and Martha, live with him. Stan owns the home where they live, but both Clark and Stan contribute towards the maintenance of the home. Clark and Martha are both under 65 years of age. Clark has pension income of $31,000 in the year, and Martha has no income. As a result, Martha is wholly dependent for support on both Stan and Clark.

Clark claims the spouse or common-law partner tax credit in respect of Martha for that year. This means that although Stan would otherwise be entitled to claim the eligible dependant tax credit in respect of Martha, paragraph 118(4)(a.1) prevents him from doing so.

2.54 Under paragraph 118(4)(b) only one individual can claim the eligible dependant tax credit:

- for a particular person; or
- within the same domestic establishment.

2.55 This means that if more than one individual is entitled to claim the eligible dependant tax credit for the same person, only one of those individuals can claim the credit in respect of that person. Similarly, if two or more individuals jointly maintain a domestic establishment where they reside, and more than one individual in that domestic establishment is eligible to claim an eligible dependant tax credit for an eligible dependant living there, only one individual can make a claim for the credit in the tax year.

2.56 In either case discussed in ¶2.54 and 2.55, the eligible dependant tax credit may only be claimed by one individual. The credit cannot be shared by having individuals each claim a portion of the credit on their returns, even if 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 it.

Example 8

Paulo and Maria are divorced and share custody of their six-year-old son Cristiano. Cristiano resides with Paulo for approximately 50% of the year, and with Maria for the remainder of the year. No child support payments are made by either parent.

Maria lives in a self-contained domestic establishment that she maintains alone. Paulo lives with his sister Rebecca and her twelve year old daughter Elizabeth. Both Paulo and Maria meet the requirements to claim the eligible dependant tax credit in respect of Cristiano for the time during the year that he lives with, and is supported by, each of them. Rebecca meets the requirements to claim the eligible dependant tax credit in respect of her daughter, Elizabeth.

Paulo and Maria agree that Paulo will be the one to claim the eligible dependant tax credit in respect of Cristiano for the current tax year. Because only one eligible dependant tax credit can be claimed within a domestic establishment, Rebecca and Paulo agree that she will not make a claim for the credit in respect of Elizabeth in the current tax year.

2.57 Where parents live separate and apart due to a breakdown in their marriage or common-law partnership, and share custody of two or more minor children, one parent may be able to claim the eligible dependant tax credit for one child, and the other parent may be able to claim the credit for another child. However, a particular parent must meet all of the requirements to claim a particular child and ensure that the limitations listed in subsections 118(4) and 118(5) do not apply. See ¶2.59 for a discussion of subsection 118(5).

2.58 If an individual is entitled to claim an eligible dependant tax credit for a person, paragraph 118(4)(c) prevents any individual from claiming the Canada caregiver tax credit (adult) for that same person for the tax year. However, an individual may be able to claim an additional tax credit under paragraph (e) of the description of B in subsection 118(1) as well as the eligible dependant tax credit. This additional credit may be claimed if the restriction in paragraph 118(4)(c) results in the eligible dependant tax credit being less beneficial to the individual compared to claiming the Canada caregiver tax credit (adult) for that person. This would occur when the dependant's income is enough to reduce the individual's eligible dependant tax credit below the amount of Canada caregiver tax credit (adult) that would be available.

Example 9

Marilyn is divorced, and lives with her 25 year-old daughter, Abigail. Abigail is dependent for support on Marilyn due to a mental infirmity. Abigail had net income of $8,000 in 2018 that she earned from a job she had until the end of October.

Marilyn meets the requirements for the eligible dependant tax credit and the Canada caregiver tax credit (adult) with respect to Abigail.

Because Marilyn is entitled to claim the eligible dependant tax credit for the 2018 tax year, paragraph 118(4)(c) prevents her from claiming the Canada caregiver tax credit (adult) in respect of Abigail for the 2018 tax year.

Marilyn's eligible dependant tax credit is calculated as follows:

(Amount for an eligible dependant (maximum if eligible for the Canada caregiver amount for a dependant) – Abigail's net income) × the lowest tax rate for the year

= ($13,991 − $8,000) × 15%

= $898

To determine whether Marilyn is entitled to an amount in addition to the eligible dependant tax credit, she must know what she could have claimed for the Canada caregiver tax credit (adult).

Marilyn's **Canada caregiver tax credit (adult)** would have been calculated as follows:

Canada caregiver amount for other infirm dependants age 18 or older (maximum amount) × the lowest tax rate for the year

= $6,986 × 15%

= $1,048

(Note that Abigail's income does not exceed the Net income threshold for Canada caregiver amount. Therefore, her income does not reduce the calculation for the Canada caregiver amount for other infirm dependants age 18 or older (maximum amount) for Marilyn)

Additional tax credit

Paragraph 118(4)(c) prevents Marilyn from claiming the Canada caregiver tax credit (adult). Therefore, she can claim the additional tax credit, calculated as follows:

Canada caregiver tax credit (adult) – eligible dependant tax credit

= $1,048 – $898

= $150

Total tax credit

The total tax credit Marilyn can claim in respect of Abigail is therefore $1,048 (eligible dependant credit of $898 plus the additional tax credit of $150).

2.59 There are certain restrictions in subsection 118(5) that can prevent an individual from claiming a personal tax credit under subsection 118(1) (such as the eligible dependant tax credit) for a particular person for a tax year. These restrictions apply if the individual is required to pay a support amount for that person to his or her current or former spouse or common-law partner. For more information regarding these restrictions, refer to ¶3.73 to 3.77 of Income Tax Folio S1-F3-C3.

Canada caregiver tax credit (adult)

2.60 The Canada caregiver tax credit (adult) is provided under paragraph (d) of the description of B in subsection 118(1). This credit is also referred to as the Canada caregiver tax credit for other infirm dependants 18 years of age or older. An individual may claim the credit for each cared-for person in the tax year. A cared-for person is a person who, at any time in the year, is dependent on the individual because of a mental or physical infirmity and is either:

a. a spouse or common-law partner of the individual, or
b. 18 years of age or older before the end of the year and dependent for support on the individual and is:
    i. the child or grandchild of the individual or of the individual's spouse or common-law partner; or
    ii. 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 or common-law partner.

2.61 It is not necessary that the cared-for person live in the same residence as the individual for the purposes of this credit.

2.62 The Canada caregiver tax credit (adult) is calculated **for each cared-for person** using the following formula:
(I – J) × K

where:

I is the Canada caregiver amount for other infirm dependants age 18 or older (maximum amount);

J is the amount, if any, of the cared-for person's income in excess of the Net income threshold for Canada caregiver amount (see ¶2.63); and

K is the lowest tax rate (15% for years after 2006).

2.63 If the cared-for person's income is less than the **Net income threshold for Canada caregiver amount**, the cared-for person's income will not reduce the amount of the individual's Canada caregiver tax credit (adult). In other words, the cared-for person's income will only reduce the amount of the individual's Canada caregiver tax credit (adult) when it is greater than the threshold.

Limitations affecting the Canada caregiver tax credit (adult)

2.64 If an individual is entitled to claim a spouse or common-law partner tax credit or an eligible dependant tax credit for a person, paragraph 118(4)(c) prevents any individual from claiming the Canada caregiver tax credit (adult) for that same person for the tax year.

Example 10

Joanne and Jamie are common-law partners who have been living with their adult child Benjamin. Benjamin is dependent on them because of a physical infirmity. Joanne and Jamie separated during the current year. Since the separation, Benjamin has been living with Joanne in a self-contained domestic establishment that Joanne owns and maintains. Joanne is entitled to claim the eligible dependant tax credit for Benjamin.

Jamie may have been eligible to make a claim for the Canada caregiver tax credit (adult) for Benjamin for the period of the year before the breakdown of his relationship with Joanne. However, paragraph 118(4)(c) prevents Jamie from making such a claim because Joanne is entitled to claim the eligible dependant tax credit for Benjamin.

2.65 The restriction discussed in ¶2.64 might result in the spouse or common-law partner tax credit or the eligible dependant tax credit being less than what would have been available if claiming the Canada caregiver tax credit (adult). In that case, in addition to either the spouse or common-law partner tax credit or the eligible dependant tax credit, the individual may be able to claim an additional tax credit under paragraph (e) of the description of B in subsection 118(1). This additional tax credit is equal to the amount by which the Canada caregiver tax credit (adult) that the individual would have been able to claim exceeds the spouse or common-law partner or eligible dependant tax credit being claimed. See Examples 5 and 9.

2.66 Where two or more individuals are entitled to a Canada caregiver tax credit (adult) for the same dependant in a tax year, the Canada caregiver tax credit (adult) may be shared by those individuals. Under subparagraph 118(4)(d)(i), the total amount claimed by all individuals for the Canada caregiver tax credit (adult) for a particular dependant cannot be more than the amount that would have been claimed if only one individual had made the claim. If individuals cannot agree as to what portion of the tax credit each can claim, subparagraph 118(4)(d)(ii) allows the Minister of National Revenue to determine the portions.

Example 11

Giordano is a widower who is 67 years old. He is physically infirm because of a major car accident, and has very high medical expenses. In 2018, Giordano had total income of $15,000 from his pension.

For the first part of 2018, Giordano lives with his son Nico and daughter-in-law Stefania. He is dependent on them for food and shelter because of his physical infirmity. In June 2018, Nico and Stefania had a baby. Two months after the birth of the baby, Giordano moved into his daughter Isabella’s home, to live with her and her family.

The total Canada caregiver tax credit (adult) available in respect of Giordano is calculated as follows:

Canada caregiver amount for other infirm dependants age 18 or older (maximum amount) × the lowest tax rate for the year

= $6,986 × 15%

= $1,048

(Note that Giordano's income does not exceed the Net income threshold for Canada caregiver amount. Therefore, Giordano's income does not reduce the Canada caregiver amount for other infirm dependants age 18 or older (maximum amount) used in this calculation for 2018.)

Nico and Isabella are each entitled to claim a Canada caregiver tax credit (adult) for Giordano for the 2018 tax year. If they decide to share it in 2018, they can choose any combination of amounts between them as long as the total amount of credit claimed in 2018 does not exceed $1,048.

2.67 There are certain restrictions in subsection 118(5) that can prevent an individual from claiming a personal tax credit under subsection 118(1) (such as the Canada caregiver tax credit (adult)) for a particular person for a tax year. These restrictions apply if the individual is required to pay a support amount for that person to his or her current or former spouse or common-law partner. For more information regarding these restrictions, refer to ¶3.73 to 3.77 of Income Tax Folio S1-F3-C3.

Canada caregiver tax credit (child)

2.68 An individual may be entitled to claim the Canada caregiver tax credit (child) under paragraph (b.1) of the description of B in subsection 118(1). This credit is also referred to as the Canada caregiver tax credit for an infirm child under 18 years of age. It is available **for each child** of the individual:

- under the age of 18 at the end of the tax year; and
- who, by reason of mental or physical infirmity, is likely to be, for a long and continuous period of indefinite duration, dependent on others for significantly more assistance in attending to the child's personal needs and care, when compared to children of the same age.

2.69 In addition to the requirements described in ¶2.68, **one of the following** three conditions must be met for each child in order for the individual to claim the Canada caregiver tax credit (child) for that child:

a. The child ordinarily resides with the individual throughout the tax year together with another parent of the child.
b. The child did not ordinarily reside throughout the year with the individual and another parent of the child, and the individual is entitled to claim the eligible dependant tax credit for that child.
c. The child did not ordinarily reside throughout the year with the individual and another parent of the child, and the individual **would have been entitled** to claim the eligible dependant tax credit for that child **if any** of the following applied:
    - the individual had not made a claim for the tax year for the spouse or common-law partner tax credit or the eligible dependant tax credit for another dependant;
    - the individual had not lived in the same domestic establishment with another individual who claimed the eligible dependant tax credit for another dependant for the tax year; or
    - the child had no income for the tax year (for example, the child did not have income for the year that was equal to or greater than the maximum amount for an eligible dependant).

Example 12

Frederick is 15 years old. His doctors have determined that because of a physical infirmity, he is likely to be, for a long and continuous period of indefinite duration, dependent on others for significantly more assistance in attending to his personal needs and care, when compared to children of the same age.

The following three separate scenarios will show three different sets of circumstances where the Canada caregiver tax credit (child) can be claimed in respect of Frederick.

Scenario A
For the entire tax year, Frederick lives with his mother, Robyn, and father, Johan.

In this situation, either Robyn or Johan (but not both) can claim the Canada caregiver tax credit (child) in respect of Frederick, as described in ¶2.69(a).

Scenario B
Frederick’s parents, Robyn and Johan, are divorced. They share equal custody of Frederick throughout the year, and neither parent pays a support amount in respect of Frederick. Robyn and Johan agree that Johan will claim the eligible dependant tax credit in respect of Frederick for the current tax year.

In this situation, because Johan will be claiming the eligible dependant tax credit, he will also be entitled to claim the Canada caregiver tax credit (child) for Frederick for the current tax year, as described in ¶2.69(b). However, because Johan will claim the Canada caregiver tax credit (child) in respect of Frederick, he will not be allowed to claim the Canada caregiver amount under the eligible dependant tax credit (see ¶2.45).

Scenario C
Frederick’s parents, Robyn and Johan, divorced when Frederick was 10 years old. Both parents share custody of Frederick throughout the year, and Johan pays support amounts to Robyn in respect of Frederick. Therefore, Johan is prevented from claiming any of the personal tax credits in respect of Frederick.

Robyn currently lives with her sister, Stacy, and her two children. Stacy claims the eligible dependant tax credit in respect of one of her children. Because they share a domestic establishment, Robyn is not entitled to claim the eligible dependant tax credit in respect of Frederick.

However, Robyn would have been entitled to claim the eligible dependant tax credit in respect of Frederick had Stacy not claimed the eligible dependant tax credit for one of her children. This means that Robyn would be entitled to claim the Canada caregiver tax credit (child) in respect of Frederick, as described in ¶2.69(c).

2.70 For the purposes of the Canada caregiver tax credit (child), subsection 118(9.1) states that where a child is born, adopted or dies during the year, the phrase **throughout the year** means throughout the portion of the year that is after the child’s birth or adoption or before the child’s death. This means that the requirement described in ¶2.69(a) can be met if the child ordinarily resides with the individual and another parent of the child throughout the portion of the year after birth or adoption or before death.

2.71 The Canada caregiver tax credit (child) is calculated using the following formula:

L × M

where:

L is the Canada caregiver amount for children under age 18

M is the lowest tax rate (15% for years after 2006).

Limitations affecting the Canada caregiver tax credit (child)

2.72 Paragraph 118(4)(b.1) prevents more than one individual from claiming the Canada caregiver tax credit (child) for the same child. Where two or more individuals are entitled to claim the credit for a particular child, the individuals must agree on who will claim the credit for the year. In situations where the individuals cannot agree on who will claim the credit for the year, no credit will be allowed for either individual.

2.73 There are certain restrictions in subsection 118(5) that can prevent an individual from claiming a personal tax credit under subsection 118(1) (such as the Canada caregiver tax credit (child)) for a particular person for a tax year. These restrictions apply if the individual is required to pay a support amount for that person to his or her current or former spouse or common-law partner. For more information regarding these restrictions, refer to ¶3.73 to 3.77 of Income Tax Folio S1-F3-C3.

Non-resident dependants of an individual resident in Canada

2.74 With certain limited exceptions, an individual who is factually resident in Canada is generally not entitled to claim a personal tax credit in respect of a non-resident person. For example, the eligible dependant tax credit will not be available for a non-resident person other than the child of the individual. However, in most cases the eligible dependant tax credit will not be available for a non-resident child, as the child is usually not supported in a residence in which both the individual and the non-resident child live.

2.75 In certain circumstances, an individual may be entitled to claim the spouse or common-law partner tax credit for a non-resident spouse or common-law partner.

The requirements for determining whether an individual may claim a spouse or common-law partner tax credit or infirm dependant tax credit for such persons who are non-resident are the same as for a person who is a resident. For example, a non-resident spouse or common-law partner must be supported by the individual. The question of support is determined on the facts of each case. If the non-resident spouse or common-law partner has 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 the individual. Also, gifts which merely enhance or supplement the already adequate lifestyle of the non-resident person do not constitute support.

More information regarding residency can be found in Income Tax Folio S5-F1-C1, Determining an Individual's Residence Status.

Application

This Chapter, which may be referenced as S1-F4-C2, is effective August 5, 2020. This Chapter replaces Income Tax Folio S1-F4-C1, Basic Personal and Dependant Tax Credits (for 2016 and prior tax years) for 2017 and subsequent years.

Any technical updates from Income Tax Folio S1-F4-C1, Basic Personal and Dependant Tax Credits (for 2016 and prior tax years) can be viewed in the Chapter History page.

Except as otherwise noted, all statutory references herein are references to the provisions of the Income Tax Act, R.S.C., 1985, c.1 (5th Supp.), as amended and all references to a Regulation are to the Income Tax Regulations, C.R.C., c. 945, as amended.

Links to jurisprudence are provided through CanLII.

Income tax folios are available in electronic format only.

Reference

Subsections 118(1), 118(4), 118(5), 118(6), and the definitions of **common-law partner** and **self-contained domestic establishment** in subsection 248(1) (also section 117.1, subsections 82(2), 117(2), 250(1), 252(1), and 252(2)).

Income Tax Folio S1-F4-C1, Basic Personal and Dependant Tax Credits (for 2016 and prior tax years)

Income Tax Folio S5-F1-C1, Determining an Individual’s Residence Status

Income Tax Folio S1-F3-C3, Support Payments

Interpretation Bulletin IT-295R4, Taxable Dividends Received after 1987 by a Spouse

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