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STEP Canada
ADVISING FAMILIES ACROSS GENERATIONS

October 20, 2026

Lindsay Gwyer
Director General, Tax Legislation Division
Tax Policy Branch, Department of Finance
90 Elgin Street, Ottawa, ON
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Via email: Lindsay.Gwyer@fin.gc.ca

Dear Ms. Gwyer,

Re: Enhancing the Effectiveness of Disability-Related Tax Measures in the Income Tax Act

On behalf of STEP Canada's Tax Technical Committee and Public Policy Committee, we are pleased to submit the following submission.

The submission identifies a number of statutory and administrative barriers that may limit access to existing disability-related tax measures, including the disability tax credit, registered disability savings plans, qualified disability trusts, preferred beneficiary elections, lifetime benefit trusts, and related rollover provisions. It recommends targeted amendments intended to improve access to these measures and better align them with their underlying policy objectives.

The submission draws principally on the March 2026 issue of the Canadian Tax Foundation's *Perspectives on Tax Law & Policy* ("*Perspectives*"), which was devoted to tax policy for persons with disabilities. STEP Canada wishes to acknowledge the significant contributions of Roman Belenky, whose published work and technical input formed the basis for many of the recommendations in this submission. We also acknowledge the valuable input of Ian Lebane, Amanda Doucette, and Kenneth Keung on behalf of STEP Canada's Tax Technical Committee and Public Policy Committee.

We would be pleased to discuss any aspect of this submission and provide any additional information that may assist the Department. Kindly direct any inquiries to Michael Dodick, Chief Operating Officer, at mdodick@step.ca.

Yours truly,

Richard Niedermayer, KC, TEP
Chair, STEP Canada

Amanda Doucette, LLB, LLM, TEP
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Executive Summary

The *Income Tax Act* contains a number of measures intended to support persons with disabilities and the families who assist them, including the disability tax credit (DTC), registered disability savings plans (RDSPs), qualified disability trusts (QDTs), preferred beneficiary elections (PBEs), lifetime benefit trusts (LBTs), and rollover rules for registered plans.

These measures play an important role in promoting financial security and long-term planning for persons with disabilities. In practice, however, their effectiveness may be reduced by technical rules that inappropriately distinguish between otherwise comparable situations. As a result, Canadians living with a disability may receive different tax outcomes if support is provided by a sibling rather than a parent, if property is held through a trust rather than directly, if a trust arises under one legal instrument rather than another, or if administrative requirements cannot readily be satisfied despite the individual meeting the underlying disability criteria.
This submission recommends targeted amendments intended to improve access to existing disability-related measures, remove unintended barriers, and better align the legislation with its underlying policy objectives. The recommendations are organized into five parts:

- RDSP access, contributions, rollovers, withdrawals, repayment rules, and plan holder capacity;
- tax on split income (TOSI) exceptions for PBE amounts and for income or taxable capital gains derived through a trust from shares that would qualify as excluded shares if held directly;
- PBE, QDT, and LBT rules that restrict who may establish, contribute to, or benefit from disability-focused trusts;
- DTC rules affecting attendant-care claims and legal-capacity requirements; and
- coordination of disability eligibility and administration across federal and provincial programs.

The recommendations draw principally on the March 2026 issue of the Canadian Tax Foundation's *Perspectives on Tax Law & Policy*, which was devoted to tax policy for persons with disabilities (see Addendum A). The submission also refers to Canada Revenue Agency (CRA) technical interpretations and roundtable responses, government reports, and other published analyses where those sources are directly relevant.

Part I: Registered Disability Savings Plans

1. Auto-enrolment for bond-eligible beneficiaries

Under the current RDSP regime, a low-income beneficiary may receive up to $20,000 in Canada disability savings bonds (CDSBs) without making a private contribution. However, the bond can be paid only after an RDSP has been opened. The March 2026 *Perspectives* issue notes that RDSP participation remains low and identifies account-opening complexity as one reason for underuse. It also refers to the government's decision to use automatic enrolment for the Canada learning bond in the registered education savings plan (RESP) context commencing in 2028 and to a Senate committee's 2014 recommendation for an RDSP auto-enrolment process.[1]

> **Recommendation 1.** Create an opt-out auto-enrolment process for DTC-eligible individuals under age 60 who do not already have an RDSP. The process should provide notice to the beneficiary and/or holder and permit the holder to assume management of the plan.

[1] Jamie Golombek & Debbie Pearl-Weinberg, "Improving the RDSP" (2026) 7:1 Perspectives Tax L & Policy 5; Standing Senate Committee on Banking, Trade and Commerce, "The Registered Disability Savings Plan Program: Why Isn't It Helping More People?" (2014); Budget 2024 at 117.

2. Lifetime contribution limit and age limit

The RDSP lifetime contribution limit is $200,000 under subparagraph 146.4(4)(g)(iii), and contributions generally cannot be made after the end of the year in which the beneficiary turns 59 under subparagraph 146.4(4)(g)(i). The $200,000 limit has not been indexed since the RDSP was introduced almost 20 years ago and has therefore declined significantly in real terms.[2] In addition, significant funds may become available only later in a beneficiary's life, particularly when a parent or other supporting family member dies and leaves property to the beneficiary. Where contribution room has already been exhausted or the beneficiary is over age 59, those newly available funds cannot be sheltered within the RDSP. Because private RDSP contributions are not deductible, the contribution age limit does not serve the same function as the maturity rules for deductible retirement savings.[3]

> **Recommendation 2.** Increase the $200,000 lifetime contribution limit in subparagraph 146.4(4)(g)(iii) to reflect the real value of the original limit and index it under section 117.1 or a comparable mechanism.
>
> **Recommendation 3.** Remove the age-59 restriction on private contributions in subparagraph 146.4(4)(g)(i), while retaining any grant and bond age limits that the Department considers necessary.

3. Registered plan rollovers

Section 60.02 permits certain registered retirement savings plan (RRSP), registered retirement income fund (RRIF), and certain pension amounts of a deceased individual to be transferred on a tax-deferred basis to the RDSP of a child or grandchild who was financially dependent on the deceased for support by reason of mental or physical infirmity. The rule does not accommodate a supporting sibling, an adult child supporting a parent, or another related person. In families where support is provided outside the parent–child relationship, registered savings may therefore be taxed on death before the remaining funds can be contributed to the beneficiary's RDSP. The tax result should not depend on which relative provided the support.[4]

> **Recommendation 4.** Expand section 60.02 to permit registered plan proceeds of any deceased person related to, and providing support for, the beneficiary to be transferred on a tax-deferred basis to the beneficiary's RDSP.

4. Mandatory withdrawals and plan limits

Lifetime disability assistance payments generally must begin by age 60 and continue annually. In addition, primarily government-assisted plans are subject to maximum annual withdrawal limits. These rules can force taxable withdrawals before funds are needed for the beneficiary's care or support and can restrict access when larger withdrawals are needed to pay for disability-related expenses, housing, or other support needs. The financial-hardship waiver for a primarily government-assisted plan also requires the holder and beneficiary to be the same person, which may exclude beneficiaries who rely on another person to act as holder.[5]

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[2] STEP Canada, "Submission to the Department of Finance Canada, Indexation of Tax Measures and Benefits Under the Income Tax Act" (4 August 2026) at appendix 1, online: <https://step.ca/news_submissions>.
[3] Peter Weissman & Roman Belenky, "Empowering Families: Reforming the Disability Tax Credit and Trust Provisions for Better Support" (2026) 7:1 Perspectives Tax L & Policy 1; Golombek & Pearl-Weinberg, *supra*.
[4] Subsection 60.02(1), definitions of "eligible individual" and "specified RDSP payment"; Weissman & Belenky, *supra*.
[5] Golombek & Pearl-Weinberg, *supra*; CRA document no 2025-1061551C6 (17 June 2025), STEP Roundtable Q5.

Recommendation 5. Amend the definition of "lifetime disability assistance payments" in subsection 146.4(1) and paragraph 146.4(4)(k) to remove mandatory annual lifetime disability assistance payments. After age 60, withdrawals should be available at the beneficiary's request based on their needs and circumstances rather than a statutory minimum.

Recommendation 6. Amend paragraph 146.4(4)(n)(i) and the definition of "specified maximum amount" in subsection 146.4(1) to remove the maximum withdrawal limit for a primarily government-assisted plan where the holder is the beneficiary. Where another person acts as holder because of the beneficiary's capacity, provide a hardship pathway with safeguards that require the funds to be used for the beneficiary.

5. Assistance holdback amount

Withdrawals from an RDSP may require the repayment of Canada disability savings grants (CDSGs) and CDSBs paid in the preceding 10 years. Because CDSGs and CDSBs may be received only to age 49, the 10-year period may practically restrict access until approximately age 60. The transitional rules that apply after the loss of DTC eligibility are also difficult to apply. Where the beneficiary validly qualified when the assistance was paid, a shorter and more predictable repayment period would continue to protect program integrity while allowing earlier access to funds.[6]

Recommendation 7. Amend the definition "assistance holdback amount" in subsection 146.4(1) to shorten the assistance holdback period from 10 years to 5 years or eliminate it once the beneficiary reaches age 50. A beneficiary who validly qualified for CDSGs or CDSBs when they were paid should be permitted to access RDSP funds before age 60 without triggering repayment of those amounts.

6. Qualifying family members and legal capacity

The temporary measure allowing all qualifying family members to act as a holder of an RDSP where a beneficiary has attained the age of majority, and the beneficiary's ability to enter into a contract is in doubt, is set to expire on December 31, 2026.[7] It was introduced as an interim response as the federal government hoped that provinces and territories would develop streamlined representation rules, but a consistent solution has not been adopted across Canada. The March 2026 *Perspectives* issue also identifies a separate issue at the payment stage, because federal RDSP rules do not themselves authorize a holder to receive payments for a beneficiary who lacks legal capacity.[8]

Recommendation 8. Make the qualifying family member measure permanent before its December 31, 2026 expiry and extend it to include other related or supporting persons who have a genuine caregiving or support relationship with the beneficiary.

Recommendation 9. Work with the provinces and territories to develop a consistent process for recognizing representatives who may receive and administer RDSP payments for a

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[6] Golombek & Pearl-Weinberg, *supra*; Budget 2019 at 362–65.
[7] Employment and Social Development Canada, *Notice #492 - Budget 2023 Changes to the Qualifying Family Member Measure* (2023), online: < https://www.canada.ca/en/employment-social-development/programs/disability/savings/issuers/bulletins/notice-2023-492.html >
[8] Golombek & Pearl-Weinberg, *supra*; Wendy Seet, "A Patchwork of Support: Why Canada Needs Coordinated Disability Policy" (2026) 7:1 Perspectives Tax L & Policy 9; Law Commission of Ontario, *Capacity and Legal Representation for the Federal RDSP: Final Report* (Toronto: LCO, 2014).

beneficiary who lacks legal capacity, subject to safeguards to ensure that the funds are used for the beneficiary's benefit.

Part II: TOSI and Preferred Beneficiary Elections

7. PBE amounts designated as dividends or taxable capital gains

Subsection 104(14) permits a trust and a preferred beneficiary to elect to include trust income in the beneficiary's income without making an actual distribution. Paragraph (c) of the "split income" definition in subsection 120.4(1) does not apply to an amount included under subsection 104(14). However, where the trust makes a designation under subsection 104(19) (and presumably under subsection 104(21) as well), the designated amount may be treated as a dividend or taxable capital gain received by the beneficiary and may be included in split income under another paragraph of the definition. The CRA has confirmed this interpretation in published technical responses.[9]
This result limits the usefulness of the PBE for trusts holding private company shares. The election recognizes that, in the disability context, there may be legitimate reasons for trustees to retain and manage the trust property for the beneficiary's long-term care, financial security, and protection. The application of TOSI after a dividend or capital gain designation may subject the amount to tax at the highest marginal rate. However, if the trust avoids the designation to prevent the application of TOSI, the beneficiary loses the benefit of dividend or capital gain treatment. In some circumstances, such as where the trust has insufficient tax otherwise payable, the related tax attributes may remain in the trust without providing any practical benefit.
In practice, this issue may be overlooked because tax-return software commonly defaults to making dividend and capital gain designations, requiring a knowledgeable practitioner to identify the issue and manually alter the reporting position.

> **Recommendation 10.** Amend subsection 120.4(1) so that an amount included in a beneficiary's income under subsection 104(14), including an amount designated under subsection 104(19) or 104(21) in respect of that election, is not split income.

8. "Excluded share" TOSI exception for a trust beneficiary who is disabled

Under the current TOSI regime, an individual who has attained age 24 before the particular taxation year may qualify for the excluded share exception in respect of income or taxable capital gains derived from excluded shares. However, one of the conditions requires that the shares be owned directly by the individual.[10] In the case of individuals with disabilities, there are often legal, financial, and practical reasons for shares to be held through a trust rather than personally. For example, a trust may be used to provide ongoing management, creditor protection, or assistance with decision-making while preserving the beneficiary's economic interest in the shares.

> **Recommendation 11.** Expand the definition of "excluded shares" in subsection 120.4(1) to allow a disabled individual to access the excluded share exception where the individual receives income or taxable capital gains from a trust in respect of shares that would otherwise qualify as excluded shares if held directly by the individual. This amendment would better accommodate the circumstances of disabled Canadians while remaining consistent with the policy objectives

[9] CRA document no 2018-0759521E5 (6 July 2018); CRA document nos 2019-0798511C6 and 2019-0798501C6 (7 June 2019); Roman Belenky & Amandeep S Bhagtana, "Preferred Beneficiary Election: TOSI Exception and the T3 Compliance Trap" (2025) 15:4 Can Tax Focus 6.
[10] Paragraph (g) of the definition "excluded amount" and the definition "excluded shares" in subsection 120.4(1). The latter definition applies to shares of the capital stock of a corporation "owned by the specified individual," which does not extend to shares held by a trust for the individual.

of the excluded share exception, which should not be denied solely because shares are held through a disability trust.

9. Settlor relationship and subsequent contributions

The "preferred beneficiary" definition in subsection 108(1) links eligibility to the beneficiary's relationship with the settlor (generally speaking, either a spouse or a parent/grandparent/great-grandparent of the beneficiary). This requirement denies the election where a disabled beneficiary is supported by other relatives, despite those relatives performing the same practical support function as a parent or spouse. The "settlor" definition in subsection 108(1) can also cause a trust to lose access to the election if another person later contributes a greater amount. For example, these rules may prevent a PBE where a sibling, aunt, uncle, or other supporting person establishes or later contributes property to the trust. The Act recognizes broader family relationships in other disability and family provisions, including the DTC transfer rules in clause 118.3(2)(a)(i)(B).[11]

> **Recommendation 12.** Expand the relationship condition in the "preferred beneficiary" definition in subsection 108(1) to include any person related to the settlor, or remove that condition where the beneficiary is DTC-eligible or infirm. Amend the definition of "settlor" in subsection 108(1) so that subsequent contribution by persons related to the beneficiary does not, by itself, eliminate PBE eligibility.

Part III: Qualified Disability Trusts

10. Trusts created through life interest trusts and during lifetime

A QDT must be a testamentary trust. The CRA has stated that a trust created under the terms of an alter ego trust or joint spousal or common-law partner trust on the death of the life interest beneficiary is not a testamentary trust. As a result, an otherwise comparable trust for a person with a disability may qualify if created under a will but not if created under a life interest trust. This distinction produces different tax outcomes for disabled beneficiaries whose interests are substantively identical, depending solely on the estate-planning vehicle chosen by the transferor. The March 2026 *Perspectives* issue identifies practical reasons for using a life interest trust, including continuity of administration, privacy, probate planning, and protection during the settlor's later years.[12]

> **Recommendation 13.** Amend the QDT definition in subsection 122(3) to include a trust created under the terms of a life interest trust on the death of the relevant life interest beneficiary, and to include an *inter vivos* trust established exclusively for one or more DTC-eligible beneficiaries, subject to appropriate anti-multiplication safeguards.

11. One QDT per beneficiary

An electing beneficiary may elect with only one QDT for a taxation year. Separate trusts may arise under the wills of grandparents, separated parents, or other family members without any common

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[11] Paragraph (b) of the "preferred beneficiary" definition and the "settlor" definition in subsection 108(1); clause 118.3(2)(a)(i)(B); Weissman & Belenky, *supra*.

[12] CRA document no 2001-0079285 (2 November 2001); Laura Peach & Susan Lin, "Planning for PWDs: Is the QDT Regime Unduly Restrictive?" (2026) 7:1 Perspectives Tax L & Policy 7; Roman Belenky, "Trusts, Estates, and Tax Planning for Children and Family Members with Disabilities" in *2024 Ontario Tax Conference* (Toronto: Canadian Tax Foundation, 2024) 4B:1.

plan to multiply graduated-rate brackets. The rule also limits access to non-graduated rate benefits of QDT status, including the basic alternative minimum tax (AMT) exemption, certain trust-reporting relief, and, in some circumstances, access to the principal residence exemption.[13] As a result, beneficiaries may lose access to important disability-related trust rules even where no income-splitting concern is present.

> **Recommendation 14.** Repeal the one-QDT-per-beneficiary restriction in subparagraph (b)(ii) of the QDT definition in subsection 122(3). If the Department wishes to preserve one set of graduated rate brackets, permit multiple QDTs for the same beneficiary to share those brackets while retaining the other benefits and consequences of QDT status. Alternatively, consider permitting multiple disability trusts for the same beneficiary to elect to be treated as a single notional trust that files a single T3 return and qualifies as a QDT.

12. Named beneficiary requirement

The QDT definition in subsection 122(3) requires the electing beneficiary to be named in the instrument under which the trust arose. The CRA has interpreted this condition to require identification by name rather than membership in a class. A will may be drafted before a grandchild is born or before a beneficiary develops a disability. As a result, a trust that was clearly intended to benefit a future disabled family member may be denied QDT status solely because the beneficiary was identified by class rather than by name. The beneficiary must in any event be identified in the joint election and satisfy the DTC requirement.[14]

> **Recommendation 15.** Amend paragraph (b) of the QDT definition in subsection 122(3) to permit an ascertainable beneficiary described as a member of a class in the governing instrument to satisfy the named beneficiary condition where that beneficiary is otherwise identified in the QDT election.

13. Contributions to a QDT

A QDT generally loses testamentary trust status if additional property is added to the trust other than on or after an individual's death and as a consequence of death. This restricts later support by a surviving parent, sibling, or grandparent or by a life interest trust. If the original trust is underfunded, the family may have to create a second trust or make an outright payment to the beneficiary. As a result, additional support for the same disabled beneficiary may need to be provided outside the QDT structure even where the contributed property would continue to be held on the same trust terms and exclusively for that beneficiary's benefit. The contribution restriction is broader than necessary if the property continues to be held for the electing beneficiary under the QDT terms.[15]

> **Recommendation 16.** Expand the QDT definition in subsection 122(3) to permit lifetime contributions to a QDT from persons related to the electing beneficiary or from a personal trust without loss of QDT status.

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[13] Subsection 122(3); CRA document no 2016-0645801C6 (10 June 2016), STEP Roundtable Q4; Peach & Lin, *supra*; clause (c.1)(iii.1)(B) of the definition of "principal residence" in section 54.

[14] CRA document no 2016-0651741C6 (7 October 2016).

[15] Definition of "testamentary trust" in subsection 108(1); Weissman & Belenky, *supra*.

14. Loss of QDT status and recovery tax

The recovery tax in subsection 122(2) may recapture the benefit of prior graduated rates in certain circumstances, including where the last electing beneficiary dies and retained income from earlier QDT years remains in the trust. The CRA has stated that recovery tax may apply in the year of death because the deceased beneficiary's estate cannot be an electing beneficiary.[16] Separately, where a beneficiary ceases to qualify for the DTC, the trust may no longer qualify as a QDT and may become subject to the ordinary trust tax rules, even where the beneficiary remains infirm and continues to be the intended object of the trust. This may create uncertainty for long-term trust planning where DTC eligibility changes over time despite the beneficiary continuing to require ongoing support.

> **Recommendation 17.** Amend subsection 122(2) so that recovery tax does not apply in the beneficiary's year of death where the remaining income or capital passes to or for the benefit of the beneficiary's estate. Consider creating a grandfathering rule under which a trust that has qualified as a QDT for a sustained period does not lose access to graduated rate taxation solely because the beneficiary subsequently loses DTC eligibility.

15. Late, amended, and revoked elections

The QDT election is not a prescribed election for the purposes of subsection 220(3.2). A missed filing may therefore deny the intended treatment even where the substantive disability and trust conditions are met. Allowing discretionary relief would align the filing consequence with the administrative nature of the elections.[17]

> **Recommendation 18.** Prescribe the QDT election under regulation 600 so that the Minister may accept a late, amended, or revoked election under subsection 220(3.2).

16. Trusts funded from an unplanned inheritance

A beneficiary may receive property directly because the deceased died intestate, the will predated the disability, or a beneficiary designation caused property to pass outside the will. A trust established after death with that property cannot qualify as a QDT because it is not a testamentary trust. The March 2026 *Perspectives* issue identifies the different results for beneficiaries who receive an inheritance under a properly drafted trust and those who receive substantially the same inheritance directly through circumstances they did not control.[18]

> **Recommendation 19.** Expand the QDT definition in subsection 122(3) to permit a trust funded exclusively with traced inherited property to qualify as a QDT where it would otherwise have qualified if created by the deceased's will. Require the trust to be established within a prescribed period following receipt of the inherited property by the beneficiary or the beneficiary's legal representative.[19] and require the trustee to identify and substantiate the inherited source in the T3 return.

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[16] Subsection 122(2); CRA document no 2016-0651751C6 (7 October 2016).

[17] Subsection 220(3.2); regulation 600; Belenky, *supra*.

[18] Laura Geddes, "Differential Treatment of ODSP Recipients: The Hurdles of an Unplanned Inheritance" (2026) 7:1 Perspectives Tax L & Policy 12.

[19] Provincial disability support programs have adopted similar concepts. For example, British Columbia's disability assistance regime recognizes that assets received by a beneficiary may subsequently be transferred to a trust or RDSP without affecting eligibility for assistance, reflecting a broader policy recognition that inherited property may need to be moved into an appropriate disability support structure after receipt. See British Columbia, Ministry of Social Development and Poverty Reduction, "Disability Assistance and Trusts" (booklet) at 3, 9.

Part IV: Lifetime Benefit Trusts and Related Rollovers

17. Relationship and dependency conditions

An LBT under section 60.011 allows certain retirement savings, retirement income fund, and pension amounts of a deceased individual to be transferred on a tax-deferred basis to a trust established for the long-term benefit of an infirm and dependent family member. The trust must be administered exclusively for that beneficiary during the beneficiary's lifetime, and trustees must consider the beneficiary's comfort, care, and maintenance when making distributions. Section 60.011 generally applies where the beneficiary is the deceased's mentally infirm spouse or common-law partner, or a mentally infirm and dependent child or grandchild. Section 60.02 uses a similarly narrow relationship model for RDSP rollovers. Those rules do not accommodate a dependent sibling, parent, grandparent, niece, or nephew even where that person was supported by the deceased. A broader related-person test would better reflect actual support relationships while retaining the dependency and infirmity conditions.[20]

> **Recommendation 20.** Expand section 60.011 to include any person related to the deceased who was dependent on the deceased for support by reason of mental infirmity, and expand section 60.02 to include any person related to the deceased who was dependent on the deceased for support by reason of mental or physical infirmity.

18. Provincial accumulations law

For a trust to qualify as an LBT, no person other than the infirm beneficiary may generally receive or obtain the use of trust income or capital during the beneficiary's lifetime. The CRA has stated that the possibility of income becoming payable to another person by operation of provincial accumulations legislation may cause the trust to fail from inception. The result may vary depending on the law governing the trust even though the federal tax purpose and trust terms are otherwise the same.[21]

> **Recommendation 21.** Amend section 60.011 to provide that a trust is not disqualified as an LBT solely because income or capital may become payable to another person by operation of provincial or territorial accumulations or perpetuities legislation, provided that the trust otherwise satisfies paragraph 60.011(1)(b).

19. Mental infirmity standard

The Act does not define "mental infirmity" for the purposes of section 60.011, and the CRA treats the issue as a question of fact.[22] Executors and trustees may therefore have difficulty determining whether the rollover is available. In addition, the provision is limited to beneficiaries who are dependent by reason of mental infirmity, which may exclude beneficiaries who are severely physically infirm but who could nevertheless benefit from the protections and administration offered by a trust structure.

> **Recommendation 22.** Amend section 60.011 to provide that a DTC-eligible person is deemed to satisfy the relevant infirmity condition, while preserving a fact-based alternative for a person

[20] Section 60.011 and subsection 60.02(1); Weissman & Belenky, *supra*.
[21] CRA document no 2021-0913801E5 (14 October 2022); Grace Chow & Ian Pryor, *Taxation of Trusts and Estates: A Practitioner's Guide* (Toronto: Thomson Reuters, 2023).
[22] CRA document no 2019-0823751E5 (3 December 2020).

who is not DTC-certified. Consider extending LBT eligibility to dependence by reason of severe physical infirmity.

Part V: Disability Tax Credit and Administrative Matters

20. Attendant-care expenses

Paragraph 118.3(1)(c) may deny the DTC where the full cost of attendant care or nursing-home care is claimed under paragraph 118.2(2)(b). A taxpayer may preserve the DTC by claiming attendant-care expenses under paragraph 118.2(2)(b.1), but that claim is limited to $10,000 annually, or $20,000 in the year of death. The interaction of these provisions can require taxpayers with significant care costs to choose between the credit and fuller medical expense relief.[23] For many individuals requiring ongoing attendant care, actual care costs may far exceed the amount claimable under paragraph 118.2(2)(b.1).

> **Recommendation 23.** Amend paragraph 118.3(1)(c) to remove the rule that denies the DTC because full attendant-care expenses are claimed. Alternatively, materially increase and index the limit in paragraph 118.2(2)(b.1).

21. Supported decision-making and DTC access

Part A of form T2201 requires information and declarations from the applicant or a legal representative. For some adults with intellectual disabilities, the ability to provide a conventional signature or communicate in the required format may be a barrier even where the medical conditions are satisfied. As a result, a person may be unable to access the DTC and related disability measures despite otherwise meeting the substantive eligibility requirements. If the CRA requires a court-appointed guardian, access to the DTC and related measures may depend on a legal process that removes decision-making authority. This concern has become increasingly significant as DTC eligibility now provides access to a growing number of federal disability measures, and as Canada continues to advance supported decision-making principles reflected in article 12 of the United Nations *Convention on the Rights of Persons with Disabilities*.
The March 2026 *Perspectives* issue recommends recognition of provincial supported decision-making arrangements and a supported-authorizer process.[24] While recent reforms have simplified certain aspects of DTC administration, they do not fully address supported decision-making barriers.

> **Recommendation 24.** Require the CRA to recognize supported decision-making arrangements validly established under provincial or territorial law for DTC and related purposes. Create an accessible supported-authorizer process through which an individual may identify a trusted person to assist with forms and communications without requiring guardianship, subject to appropriate safeguards.

22. Coordination of disability eligibility

The DTC and other federal and provincial disability programs use different eligibility criteria, certification requirements, and application processes. Because DTC eligibility now affects access to several tax and benefit measures, repeated assessments may create additional work for applicants,

[23] Paragraphs 118.2(2)(b) and (b.1) and paragraph 118.3(1)(c); Weissman & Belenky, *supra*.
[24] Krista Carr, "Application Denied: How Legal-Capacity Barriers Undermine the Disability Tax Credit" (2026) 7:1 Perspectives Tax L & Policy 14; Disability Advisory Committee, *2024 Fifth Annual Report of the Disability Advisory Committee* (Ottawa: Canada Revenue Agency, 2024).

medical practitioners, and administrators. Greater recognition of comparable determinations could reduce duplication while preserving the DTC's statutory criteria.[25]

> **Recommendation 25.** Review the disability eligibility concepts used across federal tax measures and consider deemed or streamlined DTC eligibility where a person has already been found to have a severe and prolonged disability under a comparable federal or provincial program. Support data-sharing arrangements that permit one assessment to serve more than one program, with appropriate consent and privacy protections.

23. CRA administrative guidance on disability-related tax measures

Many disability-related tax measures rely on a combination of technical interpretations, roundtable responses, guides, forms, and administrative publications. In some areas, principal CRA guidance predates significant legislative developments. For example, the CRA's principal Interpretation Bulletin on preferred beneficiary elections, IT-394R2, was last updated in 1999 and predates qualified disability trusts, the modern TOSI regime, and numerous subsequent CRA administrative positions.[26]

We recognize that the CRA, rather than the Department of Finance, is responsible for administrative guidance. However, STEP would appreciate the Department bringing this issue to the CRA's attention and encouraging a review and modernization of existing disability-related guidance.

> **Recommendation 26.** The CRA should publish a modern Income Tax Folio, or comparable consolidated administrative guidance, addressing disability-related tax measures, including the DTC, RDSPs, PBEs, QDTs, LBTs, and related rollover provisions. The guidance should consolidate relevant administrative positions, technical interpretations, and published CRA views in a single, regularly updated reference source.

Conclusion

The recommendations in this submission are intended to improve the operation of existing disability-related measures rather than replace their policy framework. In each case, the proposed amendment responds to a specific statutory or administrative rule that may prevent a person with a disability from receiving the treatment that would have been available if property were held directly, if support were provided by one relative rather than another, if a trust arises through one legal instrument rather than another, or if administrative requirements cannot readily be satisfied despite the individual meeting the underlying disability criteria.
STEP Canada encourages the Department to consider the recommendations in this submission in preparing its 2026 budget and ongoing review of disability-related provisions of the *Income Tax Act*. STEP Canada would be pleased to provide examples, technical drafting comments, or further information on any recommendation.

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[25] Seet, *supra*; *2024 Fifth Annual Report of the Disability Advisory Committee*, *supra*.
[26] Canada Revenue Agency, Interpretation Bulletin IT-394R2, "Preferred Beneficiary Election" (21 June 1999) (archived); Canada Revenue Agency, Income Tax Folio Index, online: <https://www.canada.ca/en/revenue-agency/services/tax/technical-information/income-tax/income-tax-folios-index.html>.

Additional Published Materials

- Roman Belenky & Peter Weissman, "Tax Strategies for Disabled Beneficiaries: Understanding the CRA's Clarification of Preferred Beneficiary Elections" (2025) 25:4 Tax Owner-Manager 6.
- Wendy Seet & Katy Bunio, "Estate Planning for Beneficiaries with a Disability" in *2024 British Columbia Tax Conference* (Toronto: Canadian Tax Foundation, 2024) 9:1.
- STEP Canada, "Submission to the Department of Finance on the Proposed Qualified Disability Trust Rules" (25 September 2014).
- Department of Finance Canada, *Report on Federal Tax Expenditures — Concepts, Estimates and Evaluations* (Ottawa: Department of Finance, 2025).
- Employment and Social Development Canada, *Canada Disability Savings Program: 2023 Annual Report* (Ottawa: ESDC, 2023).

Addendum A: March 2026 Issue of *Perspectives on Tax Law & Policy*

Perspectives on Tax Law & Policy, volume 7, number 1 (March 2026).
The issue includes the following articles:

- Peter Weissman & Roman Belenky, "Empowering Families: Reforming the Disability Tax Credit and Trust Provisions for Better Support," 1–5.
- Jamie Golombek & Debbie Pearl-Weinberg, "Improving the RDSP," 5–7.
- Laura Peach & Susan Lin, "Planning for PWDs: Is the QDT Regime Unduly Restrictive?" 7–9.
- Wendy Seet, "A Patchwork of Support: Why Canada Needs Coordinated Disability Policy," 9–12.
- Laura Geddes, "Differential Treatment of ODSP Recipients: The Hurdles of an Unplanned Inheritance,"
  12–14.
- Krista Carr, "Application Denied: How Legal-Capacity Barriers Undermine the Disability Tax Credit," 14–16.