

Disability Tax Credit – Mental Functions

The Legal Clinic

(Page 1 of 2)

What is the Disability Tax Credit?

The disability tax credit (DTC) is a non-refundable tax credit that helps persons with disabilities or their supporting persons reduce the amount of income tax they may have to pay. There is also a supplement for persons under 18 years of age at the end of the year. Being eligible for the DTC can open the door to other federal, provincial, or territorial programs such as the registered disability savings plan, the working income tax benefit, and the child disability benefit.

Eligibility for Disability Tax Credit – General

There are different ways for which a person can be eligible for the disability tax credit (DTC). The person must meet **one** of the following criteria:

- be blind;
- be markedly restricted in at least one of the basic activities of daily living (e.g. , vision, speaking, hearing, walking, eliminating, feeding, dressing and mental functions necessary for everyday life);
- be significantly restricted in two or more of the basic activities of daily living (e.g. , vision, speaking, hearing, walking, eliminating, feeding, dressing and mental functions necessary for everyday life (e.g. adaptive functioning, memory, problem-solving, goal-setting, and judgment); or
- need life-sustaining therapy

In addition, the person's impairment must meet **all** of the following criteria:

- be prolonged, which means the impairment has lasted, or is expected to last for a continuous period of at least 12 months
- be present all or substantially all the time (at least 90% of the time)

Markedly restricted

A person is markedly restricted if they are unable to do one or more of the basic activities of daily living, even with therapy (other than life-sustaining therapy) and the use of appropriate devices and medication, or it takes an inordinate amount of time to do so.

This restriction must be present all or substantially all the time (at least 90% of the time).

Inordinate amount of time

Usually, this equals **3** times the average time needed to complete the activity by a person of the same age who does not have the impairment.

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(Page 2 of 2)

Mental functions necessary for everyday life – Medical doctor, nurse practitioner, or psychologist

Your patient is considered **markedly restricted** in performing the mental functions necessary for everyday life (described below) if, even with appropriate therapy, medication, and devices (for example, memory aids and adaptive aids):

- they are **unable** or take an **inordinate amount of time** to perform these functions by themselves; and
- this is the case **all or substantially all of the time** (at least 90% of the time).

Mental functions necessary for everyday life include:

- adaptive functioning (for example, abilities related to self-care, health and safety, abilities to initiate and respond to social interactions, and common, simple transactions);
- memory (for example, the ability to remember simple instructions, basic personal information such as name and address, or material of importance and interest); and
- problem-solving, goal-setting, and judgment taken together (for example, the ability to solve problems, set and keep goals, and make the appropriate decisions and judgments).

Note

A restriction in problem-solving, goal-setting, or judgment that markedly restricts adaptive functioning, all or substantially all of the time (at least 90% of the time), would qualify.

Is your patient **markedly restricted** in performing the mental functions necessary for everyday life, as described above?

Yes No

If **yes**, when did your patient's restriction in performing the mental functions necessary for everyday life become a marked restriction (this is not necessarily the year of the diagnosis, as is often the case with progressive diseases)?

Year
2 | 0 | 1 | 8

Effects of impairment – Mandatory

The effects of your patient's impairment must be those which, even with therapy and the use of appropriate devices and medication, cause your patient to be restricted **all or substantially all of the time** (at least 90% of the time).

Note

Working, housekeeping, managing a bank account, and social or recreational activities are **not** considered basic activities of daily living. Basic activities of daily living are limited to walking, speaking, hearing, dressing, feeding, eliminating (bowel or bladder functions), and mental functions necessary for everyday life.

It is **mandatory** that you describe the effects of your patient's impairment on his or her ability to do each of the basic activities of daily living that you indicated are or were markedly or significantly restricted. If you need more space, use a separate sheet of paper, sign it and attach it to this form. You may include copies of medical reports, diagnostic tests, and any other medical information, if needed.

Debra stays at home and avoids social interactions due to anxiety. She will not make or answer phone calls without considering it anxiously for several days. She cannot perform simple transactions such as grocery shopping without support from others. She is markedly restricted in her adaptive functioning.

OR:

Joseph has a cognitive impairment and cannot remember simple instructions, or appointment dates, even when written down for him. He is markedly restricted in his memory.

OR:

Colleen suffers from depression and has no motivation to solve problems, set goals, or make decisions. She lacks initiative to perform even routine activities. She is markedly restricted in her problem-solving, goal setting and judgment.

Duration – Mandatory

Has your patient's impairment lasted, or is it expected to last, for a continuous period of at least 12 months?
For deceased patients, was the impairment expected to last for a continuous period of at least 12 months?

Yes No

If **yes**, has the impairment improved, or is it likely to improve, to such an extent that the patient would no longer be blind, markedly restricted, in need of life-sustaining therapy, or have the equivalent of a marked restriction due to the cumulative effect of significant restrictions?

Unsure Yes No

If **yes**, enter the year that the improvement occurred or may be expected to occur.

Year
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This document was inspired by a document created by the Community Advocacy & Legal Centre