



NO.: **IT-495R3**

DATE: May 11, 2005

SUBJECT: INCOME TAX ACT  
**Child Care Expenses**

REFERENCE: Section 63 (also sections 6, 7, 64.1, 118, 118.3 and 122.6; subsections 81(4), 118(1), 118.2(2), 118.3(1), 118.6(1), 122.61(1), 220(2.1), and 251(6); the meaning of common-law partner in subsection 248(1) and the extended meaning of child in subsection 252(1); and paragraphs 3(f), 56(1)(n), 56(1)(o), 56(1)(r), 60(v.1), 60(w), 81(1)(a), 118(1)(c), 251(2)(a) and 252(2)(a) of the *Income Tax Act*).

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### *Explanation of Changes*

## Application

This bulletin cancels and replaces Interpretation Bulletin IT-495R2, *Child Care Expenses*, dated January 13, 1997. The comments in this bulletin apply to the 2001 and subsequent taxation years. Unless otherwise stated, all statutory references throughout the bulletin are to the *Income Tax Act* (the Act). All terms in **bold** are defined in the Act and explained in this IT.

*Please note that this bulletin does not reflect Bill C-38, an Act respecting certain aspects of legal capacity for marriage for civil purposes, tabled on February 1, 2005.*

## Summary

The purpose of the legislative provisions regarding **child care expenses** is to provide some relief for taxpayers who incur **child care expenses** in order to work, carry on a business or undertake certain educational activities.

A taxpayer is allowed to deduct in computing income for a taxation year an amount paid as or on account of **child care expenses** incurred for services rendered in the year. The deduction is limited to:

- a maximum of \$10,000 per year for each **eligible child** in respect of whom the taxpayer may claim the disability tax credit for the year;
- a maximum of \$7,000 per year for each other **eligible child** who is under 7 years of age at the end of the year; and
- a maximum of \$4,000 per year for each other **eligible child**.

Depending upon the circumstances, qualifying **child care expenses** may be deducted by the taxpayer making the payment, by a **supporting person** or by both. Payments do not qualify as **child care expenses** if they are made to a parent or **supporting person** of the child, or to a person who is under 18 years of age and **related** to the taxpayer.

The bulletin discusses the meaning of **child care expenses** including the circumstances under which such expenses may be deducted. It comments on certain specific types of expenses and whether or not they qualify for deduction. It also discusses who is eligible to claim **child care expenses** and the limitations with respect to such claims. Examples are provided for lower and higher income taxpayers.

## Discussion and Interpretation

### Explanation of expressions used

#### *Child care expense*

¶ 1. The term **child care expense** is defined in subsection 63(3). **Child care expense** means an expense incurred for services rendered in a taxation year for the purpose of providing child care services for any **eligible child** (see ¶ 7) of a taxpayer if the services were provided to enable the

taxpayer or a **supporting person** (see ¶ 10) of the child for the year:

- to perform the duties of an office or employment;
- to carry on a business either alone or as a partner actively engaged in the business;
- to carry on research or any similar work for which the taxpayer or **supporting person** received a grant; or
- to attend a secondary school or **designated educational institution** where the taxpayer is enrolled in a full-time or part-time educational program (see ¶ 20).

The taxpayer or **supporting person** must have resided with the child at the time the expense was incurred in order for the expense to qualify as a **child care expense**.

¶ 2. **Child care expenses** include payments to:

- an eligible child care provider (see ¶ 6);
- a day nursery school or day-care centre;
- a day camp or day sports school (see ¶ 4);
- a boarding school or camp (including a sports school where lodging is involved); and
- an educational institution (see ¶ 3) for the purpose of providing child care services.

The above is not an exhaustive list of deductible **child care expenses**. For example, advertising expenses and placement agency fees incurred to locate a child care provider and mandatory registration fees may also qualify as **child care expenses**. In each case, the requirements in the definition of **child care expense** in subsection 63(3), as explained in ¶s 1, 5 and 6, must also be met.

#### *Educational institution*

¶ 3. When an educational institution offers child care as well as an educational program, only the portion of the fees paid to the institution relating to child care (i.e., supervision before and after classes or during the lunch period) may qualify as **child care expenses**. However, when the payment made is for a child under the compulsory school age, the services being provided are generally considered child care rather than education unless the facts indicate otherwise.

#### *Day sports school*

¶ 4. The term day sports school is intended to cover those day camps providing a sufficient degree of child care services. Where a child participates in a particular program that includes sports, there can be an element of education and perhaps training as well as an element of child care. However, in any particular case, it is a question of fact as to whether child care services can be regarded as having been provided or whether a program of training and/or education is essentially involved. With respect to any particular program, a degree of basic protection and safety (child care services) is normally involved although the program may also provide activities and instruction which enrich the program. In determining whether a particular sports program involves a sufficient degree of child care, some factors that

would be considered are the age of the participating children, the instructors' qualifications, the extent that progress is measured and goal-orientation is involved, the time devoted to the program, the duration of the program and the training and educational facilities used. For example, sports day camps for young children are generally not of an ongoing nature and it is generally recognized that there is a sufficient degree of child care even though the program is enriched by sporting activities with instruction. On the other hand, children, particularly those who are older, may participate in a sports program that is ongoing for a lengthy period of time, the instructors have degrees or certificates in respect of physical education, progress is regularly monitored and is goal-oriented, and sophisticated training methods and facilities are used. In this type of scenario, it is our general view that education and training are essentially involved as opposed to child care.

### ***Excluded child care expenses***

¶ 5. Specifically excluded from the definition of **child care expense** are:

- medical expenses described in subsection 118.2(2) (see the current version of IT-519, *Medical Expense and Disability Tax Credits and Attendant Care Expense Deduction*) and any other expenses for medical or hospital care;
- clothing, transportation or education costs; and
- board and lodging expenses, except to the extent they are included in the total charges for attendance at an overnight sports school or a boarding school or camp and those total charges do not exceed the product obtained when multiplying the **periodic child care expense amount** (see ¶ 12) in respect of the child for the year by the number of weeks during which the child attended the school or camp.

Note that the cost of meals is not disqualified when it is included in the cost of babysitting, day nursery or day camp services.

### ***Eligible child care provider***

¶ 6. Subject to the exceptions outlined in ¶ 29, for an expense in respect of child care services to qualify as a **child care expense**, the services must be provided by a resident of Canada. Where the child care services are provided by an individual, the individual must be a person other than:

- the child's father or mother;
- a **supporting person** of the child;
- a person in respect of whom the taxpayer or a **supporting person** of the child has deducted a tax credit under section 118 for the year; or
- a person who is under 18 years of age and **related** to the taxpayer.

Paragraph 251(2)(a) provides that individuals are **related** if they are connected by blood relationship, marriage, **common-law partnership** or adoption. Subsection 251(6)

defines a connection by blood relationship, marriage, **common-law partnership** or adoption for the purposes of the Act. For example, a brother-in-law or sister-in-law of the taxpayer is **related** to the taxpayer under subsection 251(6). However, a niece, nephew, aunt, or uncle is generally not **related** to the taxpayer. For further information on the criteria used to determine whether or not persons deal with each other at arm's length under the Act see the current version of IT-419, *Meaning of Arm's Length*.

### ***Eligible child***

¶ 7. An **eligible child** of a taxpayer for a taxation year is defined in subsection 63(3) to mean:

- a child of the taxpayer or of the taxpayer's spouse or **common-law partner** (see ¶s 8 and 9); or
- a child dependent on the taxpayer or the taxpayer's **spouse** or **common-law partner** for support and whose income for the year does not exceed the basic personal amount for the year as provided in paragraph (c) of the description of B in subsection 118(1).

The child has to be under 16 years of age at some time in the year. However, the age limit does not apply if, during the year, the child is dependent on the taxpayer or on the taxpayer's spouse or **common-law partner** and has a mental or physical infirmity.

### ***Extended meaning of child***

¶ 8. Subsection 252(1) provides an extended meaning of the term "child" for the purposes of the Act. Under this subsection, a child of a taxpayer includes:

- a natural child of the taxpayer;
- a person who is wholly dependent on the taxpayer for support and of whom the taxpayer has, or immediately before the person attained the age of 19 years had, in law or in fact, the custody and control;
- a child of the taxpayer's spouse or **common-law partner**; and
- an adopted child of the taxpayer.

### ***Spouse and common-law partner***

¶ 9. The term spouse now refers exclusively to a person who is legally married to the taxpayer. The term **common-law partner** in respect of a taxpayer is defined in subsection 248(1) and at a particular time includes:

- (a) a person who at that time cohabits in a conjugal relationship with the taxpayer and has done so for any continuous period of at least one year; and
- (b) a person who at that time cohabits in a conjugal relationship with the taxpayer and is the parent of a child of the taxpayer for one of the following reasons:
  - the person is the natural or adoptive parent of the child; or

- the child is wholly dependant 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).

Under the definition of **common-law partner**, once a taxpayer and another individual have cohabited in a conjugal relationship, they will be deemed to cohabit in a conjugal relationship at any future particular time unless, because of a breakdown of their conjugal relationship, they were living separate and apart at that particular time and for a period of at least 90 days that includes that time.

**Note:** *However, draft amendments were released in February 2004, to paragraph (a) of the definition of **common-law partner** in subsection 248(1). If enacted as proposed, for the 2001 and subsequent taxation years, to qualify as **common-law partners** at a particular time under (a) above, the two individuals must have cohabited in a conjugal relationship throughout the twelve month period that ends at that particular time.*

### Supporting person

¶ 10. A **supporting person** of an **eligible child** of a taxpayer for a taxation year is defined in subsection 63(3) to mean an individual who resided with the taxpayer at any time during the year and at any time within 60 days after the end of the year and who is:

- the child's parent (paragraph 252(2)(a) provides an extended meaning of parent for the purposes of the Act);
- the taxpayer's spouse or **common-law partner**; or
- any other individual who claimed a tax credit under section 118 for the child for the year.

### Annual child care expense amount

¶ 11. The **annual child care expense amount** is defined in subsection 63(3) and sets out the overall maximum amount that a taxpayer can deduct for a year in respect of the taxpayer's **eligible child** (see ¶ 7). The child's age, physical and mental condition will determine the maximum amount to be deducted.

For a child in respect of whom a disability tax credit may not be claimed

In this case, the **annual child care expense amount** is:

- \$7,000 for each child under 7 years of age at the end of the year;
- \$4,000 for each child over 6 years of age at the end of the year and under 16 years of age at any time during the year; or
- \$4,000 for each child over 15 years of age throughout the year who has a physical or mental infirmity and is dependent on the taxpayer, the taxpayer's spouse or **common-law partner** (see the current version of IT-513, *Personal Tax Credits*, for more information).

For a child in respect of whom a disability tax credit may be claimed

When the credit can be claimed for the year under section 118.3 for a child with a severe and prolonged mental or physical impairment, the **annual child care expense amount** is \$10,000 (see ¶ 31 for a discussion of the potential impact of a **child care expense** claim on the entitlement to a disability tax credit supplement). See the current version of IT-519, *Medical Expense and Disability Tax Credits and Attendant Care Expense Deduction* for more information.

### Periodic child care expense amount

¶ 12. The **periodic child care expense amount** as defined in subsection 63(3) is 1/40 of the **annual child care expense amount** (see ¶ 11) in respect of an **eligible child** of the taxpayer for the year. The total periodic child care expense amounts is 1/40 of the sum of the annual child care expense amounts in respect of all **eligible children** of the taxpayer for the year.

### Who may claim the deduction

#### General rule

¶ 13. Subsection 63(1) provides that an amount paid as or on account of **child care expenses** incurred for services rendered in a taxation year for an **eligible child** may be deducted:

- only by the taxpayer, when there is no **supporting person** (e.g., a taxpayer lives alone with the **eligible child** throughout the year); or
- only by the taxpayer with the lower income, when there is a taxpayer and a **supporting person** and the circumstances described in ¶ 17(a) to (c) do not apply.

An amount paid as or on account of **child care expenses** incurred for services rendered in a taxation year for an **eligible child** may be deducted by the taxpayer with the higher income or partly by both that taxpayer and the **supporting person** under certain circumstances (see ¶ 17). For further information on the calculation of **child care expenses** and examples, see ¶s 21-23 for the general rule and ¶s 24-25 for the higher income taxpayer.

#### Income

¶ 14. In determining whether the taxpayer or the **supporting person** had the lower income for the year, subsection 63(2) provides that the calculation of incomes is to be done without reference to any otherwise allowable deductions for:

- child care expenses** under section 63;
- any benefit repayment payable under Part VII of the *Employment Insurance Act* on or before April 30 of the following year and which is deductible for the taxation year under paragraph 60(v.1); or
- the amount of old age security benefits that is required to be repaid for the year as tax under Part I.2 as provided by paragraph 60(w).

Paragraph 3(f) provides that a taxpayer with no income for a year is deemed to have income of an amount equal to zero.

¶ 15. Subsection 63(2.1) applies when the income for the year of a taxpayer who has an **eligible child** and the income of a **supporting person** of the child are equal when calculated in the manner described in ¶ 14. In such cases, subsection 63(2.1) provides that no **child care expense** deduction will be allowed to either the taxpayer or to the **supporting person** unless they jointly elect to treat the income of one of them as exceeding the income of the other for the year. The election can be made by having either the taxpayer or the **supporting person**, but not both, claim the deduction. A claim for the **child care expense** deduction is made by filing Form T778, *Child Care Expenses Deduction* (see ¶ 28).

### Payer of child care expenses

¶ 16. Subject to the comments in ¶ 18, there is generally no requirement that the individual who claims **child care expenses** must have personally paid those expenses provided there is both a taxpayer and a **supporting person** for the year and the expenses were paid by either of these individuals. However, when there is no **supporting person** for the year, the taxpayer claiming **child care expenses** must have paid those expenses. Under paragraph 63(1)(d), no deduction may be claimed for **child care expenses** for which any taxpayer is or was entitled to a reimbursement or any other form of assistance unless the reimbursement or assistance is included in a taxpayer's income and is not deductible in computing that taxpayer's taxable income.

### Higher income taxpayer

¶ 17. By virtue of subsection 63(2), the taxpayer with the higher income will be allowed to deduct **child care expenses** under subsection 63(1) (see ¶s 24-25) during the period that the **supporting person** with the lower income was:

- (a) a student in attendance at a **designated educational institution** or secondary school (see ¶ 27) and enrolled in a full-time or part-time program (see ¶ 20);
- (b) certified by a medical doctor to be a person who
  - by reason of mental or physical infirmity and confinement throughout a period of not less than two weeks in the year to a bed or to a wheelchair or as a patient in a hospital, an asylum or other similar institution, was incapable of caring for children, or
  - by reason of mental or physical infirmity, was in the year, and is likely to be for a long-continued period of indefinite duration, incapable of caring for children;
- (c) confined to a prison or similar institution throughout a period of not less than two weeks in the year; or
- (d) living separate and apart from the taxpayer at the end of the year and for a period of at least 90 days beginning in that year because of a breakdown of their marriage or **common-law partnership**. However, such a claim is

valid only if the taxpayer with the higher income paid those **child care expenses** and the person with the lower income is a **supporting person**. As indicated in ¶ 10, this requires that the two parties have:

- resided together at some time during the year; and
- reconciled within 60 days after the end of the year.

Because they must have been residing together at some time during the year and been separated at the end of the year, such a deduction is available to the taxpayer with the higher income only for the taxation year in which the separation occurred. However, as noted in ¶ 18, this restriction does not apply when the person with the lower income is not a **supporting person**.

If any of the situations described in (a) to (d) above applies, see ¶ 24 to determine the maximum amount that the taxpayer with the higher income may deduct for **child care expenses** for a year.

*Draft amendments to the Act were released in February 2004. If enacted as proposed, after December 20, 2002, the medical doctor's certification described at ¶ 17(b) will have to be in writing.*

### Separation and shared custody

¶ 18. If the reconciliation referred to in ¶ 17(d) does not occur, the requirement in ¶ 10 will not be met with the result that there will not be a **supporting person** for the year of separation. In this case, **child care expenses** for the year of separation will be allowed only to the individual who resided with the child and only to the extent that they were paid by that individual to enable the individual to engage in one of the activities listed in ¶ 1. When there is no qualifying reconciliation and the child lived with each parent at different times in a year (e.g. shared custody situations), both taxpayers may claim a deduction for the year as provided in ¶ 21 with no reduction for the amount claimed by the other taxpayer. In these cases, the CRA will generally consider each parent to reside with a child while the child is in their custody. Assuming that neither parent is residing with a **supporting person** during the year, each parent could claim **child care expenses** incurred in a taxation year for an **eligible child** for the expenses incurred by the parent for a period during which the child resided with the parent and only to the extent that they were paid by that parent (see ¶ 16) to be enabled to engage in the activities listed in ¶ 1. However, if the parent remarries or enters into a common-law relationship with another person such that the other person is a **supporting person** as described in ¶ 10, the new **supporting person** may be the one entitled to deduct **child care expenses**.

### Students

¶ 19. Under subsection 63(2.2), a taxpayer may be entitled to deduct an additional amount of **child care expenses** for **eligible children** for periods during which the taxpayer was a student enrolled in a full-time or part-time program (see ¶ 20). However, as determined under subsection 63(2.3),

if there is a **supporting person** that person must also be a student at the same time as the taxpayer, and the taxpayer must have the higher income for the year (computed as described in ¶ 14) to claim the additional amount of **child care expenses** under subsection 63(2.2). In each case, the student or students must be in attendance at a **designated educational institution** or secondary school (see ¶ 27). The deduction will vary depending on whether the program is full-time or part-time. See ¶s 26-27 for further information on the calculation of **child care expenses** for students.

### Full-time and part-time programs

¶ 20. A full-time program is one that has to last at least 3 consecutive weeks and requires that each student in the program spend at least 10 hours per week on courses or work in the program. A part-time program is one that also has to last at least 3 consecutive weeks and requires that each student in the program spend at least 12 hours per month on courses.

## Maximum deduction

### General rule

¶ 21. A taxpayer may claim less than the maximum amount allowed under subsection 63(1) when it is advantageous for the taxpayer to do so (see ¶s 30-31). It is not possible, however, to carry forward unclaimed expenses to a subsequent taxation year. The deduction available under subsection 63(1) is limited to a maximum of \$10,000, \$7,000 or \$4,000 per **eligible child**, depending on the circumstances. An amount is not deductible by the taxpayer if it is included in computing deductible **child care expenses** for someone else.

As noted in ¶ 13(a), (b) and ¶ 16, **child care expenses** may be deducted by:

- the taxpayer when there is no **supporting person**; or
- the taxpayer with the lower income when there is a taxpayer and a **supporting person** and the circumstances described in ¶ 17(a) to (c) do not apply.

In either of these cases, the amount deductible by a taxpayer in any particular year is limited to the least of A and B.

**A** is the amount paid by the taxpayer or **supporting person** as or on account of **child care expenses** (see ¶s 1-6) incurred for services rendered in the year, and that is not already included as an amount deductible under subsection 63(1) by an individual other than the taxpayer. However, pursuant to paragraph 63(1)(d), no deduction may be claimed for **child care expenses** for which any taxpayer is or was entitled to a reimbursement or any other form of assistance unless the reimbursement or assistance is included in a taxpayer's income and is not deductible in computing that taxpayer's taxable income.

**B** is the amount, if any, by which the lesser of

- (I) two-thirds of the taxpayer's **earned income** (see ¶ 22) for the year; and

- (II) the total of all amounts, each of which is the **annual child care expense amount** (see ¶ 11) in respect of an **eligible child** (see ¶ 7) of the taxpayer for the year;

exceeds

- (III) amounts deducted under section 63 for the year in respect of the taxpayer's eligible children by an individual, other than the taxpayer, to whom subsection 63(2) applies (i.e. the higher income taxpayer).

The amount deductible by the taxpayer or **supporting person** with the higher income may be further limited as explained in ¶s 24-25.

### Earned income

¶ 22. As indicated in ¶ 21 under the general rule, a taxpayer's claim for **child care expenses** for a year cannot exceed two-thirds of the taxpayer's **earned income** for that year. **Earned income** of a taxpayer for the purposes of the **child care expense** deduction is defined in subsection 63(3). **Earned income** consists of:

- (a) a disability pension received under the *Canada Pension Plan* or the *Quebec Pension Plan*;
- (b) all salaries, wages, tips, and other remuneration from an office or employment;
- (c) all amounts included in computing employment income by virtue of sections 6 and 7 (employment benefits and employee stock option benefits);
- (d) all scholarships, fellowships, bursaries, prizes and research grants to the extent they are included in income under paragraph 56(1)(n) or (o);
- (e) any governmental financial assistance as defined under paragraph 56(1)(r); and
- (f) incomes (excluding losses) from all businesses carried on alone or as a partner actively engaged in the business of the partnership. Generally, an actively engaged partner is one who contributes time, labour and attention to the partnership business and the quantity and quality of the partner's efforts are expected to be factors in determining the amount of partnership profits.

The amounts described in (b) to (f) above are to be taken into account in calculating a taxpayer's **earned income** even though these amounts, by reason of paragraph 81(1)(a) (statutory exemptions) or subsection 81(4) (payments for volunteer services), may not be required to be included in income.

### Example

¶ 23. Assume that for 2003 the parent with the lower income

- paid total child care expenses of \$15,000 for services rendered for three eligible children who were all under the age of 7 years at the end of the year;
- had earned income of \$27,000; and

- was not entitled to assistance in respect of the amount paid for child care expenses, nor was any other taxpayer.

Under subsection 63(1) no other taxpayer included in computing an amount deductible the amount paid for child care expenses.

Lesser of A and B where

A is the amount paid for child care expenses \$15,000

B is the amount, if any, by which the lesser of

(I)  $\frac{2}{3}$  of the taxpayer's earned income ( $\frac{2}{3} \times \$27,000$ ) \$ 18,000

(II) the total of all annual child care expense amounts for 3 children under 7:  $\$7,000 \times 3$  eligible children \$ 21,000

exceeds

(III) amounts deducted under section 63 for the year in respect of the taxpayer's eligible children by the higher income taxpayer \$ nil \$18,000

Therefore, the lesser of A and B is \$15,000, so the full amount expended on behalf of the three children is deductible in computing the income of the parent with the lower income for 2003.

### ***Deductibility of child care expenses by the higher income taxpayer***

¶ 24. When an amount paid as or on account of **child care expenses** is deductible by the taxpayer with the higher income or partly by both that taxpayer and the **supporting person**, the amount deductible by the higher income taxpayer under subsection 63(1) is limited to the lesser of:

- the amount computed under paragraph 63(2)(a) (which is the amount that would otherwise be deductible by the higher income taxpayer for the year using the formula (lesser of A and B) discussed in ¶ 21); and
- the amount computed under paragraph 63(2)(b).

The amount computed under paragraph 63(2)(b) is the total of all periodic child care expense amounts (see ¶ 12) multiplied by the total of

- the number of weeks in the year during which the **child care expenses** were incurred and throughout which the **supporting person** (with the lower income) was
  - a full-time student (see ¶ 20) in attendance at a **designated educational institution** or secondary school (see ¶ 27), or
  - a person as described in ¶ 17(b) to (d); and

- the number of months in the year during which the **child care expenses** were incurred and the **supporting person** (with the lower income) was a part-time student (see ¶ 20) in attendance at a **designated educational institution** or secondary school (see ¶ 27) and for which weeks or part weeks were not included in the preceding calculation.

If the amount paid for **child care expenses** exceeds the amount deducted by the higher income taxpayer, the **supporting person** may claim the excess to the extent permitted by subsection 63(1). In addition to the above limitations, claims for **child care expenses** when there has been a separation and reconciliation as described in ¶ 17(d) are subject to the comments in ¶ 18.

### ***Example***

¶ 25. Gwen and David have 3 children who were under the age of 7 years at the end of 2003. They paid child care expenses of \$13,000 for services rendered in 2003. No one was entitled to any reimbursement with respect to this amount. Gwen and David had earned income of \$45,000 and \$27,000, respectively, for 2003. David was a full-time student in attendance at a **designated educational institution** for 16 weeks in 2003. Gwen will calculate her maximum child care expense deduction first, because she is in a higher tax bracket, and David will calculate his after.

#### *Higher Income Taxpayer*

Lesser of amounts computed under paragraphs 63(2)(a) and (b):

Amount computed under paragraph 63(2)(a) (see ¶ 24)

Lesser of A and B where

A is the amount paid for child care expenses \$13,000

B is the lesser of

(I)  $\frac{2}{3}$  of Gwen's earned income ( $\frac{2}{3} \times \$45,000$ ) \$ 30,000

(II) the total of all annual child care expense amounts for 3 children under 7:  
 $\$7,000 \times 3$  eligible children \$ 21,000

lesser of (I) and (II) \$21,000

Lesser of A and B \$13,000

Amount computed under paragraph 63(2)(b) (see ¶ 24)

Total periodic child care expense amounts ( $\frac{1}{40} \times \$21,000$ ) \$ 525

Multiplied by the number of weeks in 2003 that David was a full-time student 16

\$ 8,400

Gwen's maximum child care expense deduction under subsection 63(1) for 2003 is therefore \$8,400 because the amount computed under paragraph 63(2)(b) is less than the amount computed under paragraph 63(2)(a).

*Lower Income Taxpayer*

Assuming that Gwen deducts child care expenses of \$8,400 for 2003, David's maximum deduction for child care expenses is calculated as follows under subsection 63(1) (see ¶ 21):

Lesser of A and B where

A is the amount paid for child care expenses	\$13,000
less the amount deductible by Gwen under subsection 63(1)	<u>\$ 8,400</u>
	<u>\$ 4,600</u>

B is the lesser of

(I) 2/3 of David's earned income (2/3 × \$27,000)	\$ 18,000
(II) the total of all annual child care expense amounts for 3 children under 7: \$7,000 × 3 eligible children	\$ 21,000
lesser of (I) and (II)	\$18,000
minus	
(III) amount deducted by Gwen under section 63	<u>\$ 8,400</u>
	<u>\$ 9,600</u>

David can deduct a maximum of \$ 4,600 for child care expenses for 2003, which is the lesser of A and B.

The \$13,000 paid by this family for child care services rendered in 2003 is fully deductible (\$8,400 by Gwen plus \$4,600 by David).

**Child care expenses while at school**

¶ 26. In addition to amounts which may be deductible under either the general rule at ¶ 21 or by the higher income taxpayer at ¶ 24, a taxpayer may be entitled to claim an amount of **child care expenses** for **eligible children** under subsection 63(2.2) (see ¶ 19) for periods during which the taxpayer was a student in attendance at a **designated educational institution** or secondary school (see ¶ 27) enrolled in a full-time or part-time program (see ¶ 20). See Form T778, *Child Care Expenses Deduction* for assistance in calculating the amount available to a particular taxpayer (as discussed in ¶ 28).

The deduction for **child care expenses** where a taxpayer is a student is limited under subsection 63(2.3) to the least of the following amounts:

- (i) the amount paid for **child care expenses** incurred for services rendered in the year for **eligible children** less the amount which is deductible by the taxpayer under subsection 63(1) for the year (see ¶s 21 and 24);
- (ii) two-thirds of the taxpayer's income for the year computed as described in ¶ 14;

(iii) the amount determined by the formula  $A \times C$

- where "A" represents the total of all the periodic child care expense amounts (see ¶ 12) for all **eligible children** (see ¶ 7) of the taxpayer for the year
- and "C" represents:

where there is a **supporting person** (see ¶ 10) of an **eligible child** with a lower income (computed as described in ¶ 14) than the taxpayer's for the year:

- (a) the number of weeks in the year during which both the taxpayer and the **supporting person** were students in attendance at a **designated educational institution** or secondary school enrolled in full-time programs,

plus

- (b) the number of months (for which weeks or part weeks are not included in (a)) that both the taxpayer and the **supporting person** were students in attendance at a **designated educational institution** or secondary school enrolled in full-time or part-time programs during the year; and

where there is no **supporting person** of an **eligible child** for the year:

- (c) the number of weeks in the year during which the taxpayer was a student in attendance at a **designated educational institution** or secondary school enrolled in a full-time program,

plus

- (d) the number of months (for which weeks or part weeks are not included in (c)) that the taxpayer was a student in attendance at a **designated educational institution** or secondary school enrolled in a part-time program during the year;

- (iv) the amount by which the total annual child care expense amounts for the year (see ¶ 11) in respect of the taxpayer's **eligible children** exceed the amount that is deductible by the taxpayer for the year under subsection 63(1); and

- (v) where there is a **supporting person** of an **eligible child** with a lower income (computed as described in ¶ 14), the amount by which the amount calculated under paragraph 63(2)(b) for the year for the higher income taxpayer exceeds two-thirds of the higher income taxpayer's **earned income** for the year (see ¶s 17, 22 and 24).

## ***Designated educational institution***

¶ 27. **Designated educational institution**, as defined in subsection 118.6(1), means any of the following:

- (a) a university, college, or other educational institution in Canada that has been designated by the Lieutenant Governor in Council of a province as a specified educational institution under the *Canada Student Loans Act*, designated by an appropriate authority under the *Canada Student Financial Assistance Act*, or designated by the Minister of Higher Education and Science of the province of Quebec for the purposes of *An Act respecting financial assistance for students* of the province of Quebec; or
- (b) an educational institution in Canada certified by the Minister of Human Resources Development as one providing courses, other than courses designed for university credit, that furnish or improve occupational skills; or
- (c) a university outside Canada at which the student for whom the education tax credit is determined is enrolled in a course of at least 13 consecutive weeks duration, leading to a degree not lower than the bachelor or equivalent level; or
- (d) a university, college or other educational institution in the United States providing courses at the post-secondary school level if the student for whom the education tax credit is determined resides throughout the year in Canada near the border between Canada and the United States and commutes to that educational institution.

**Note:** *Draft amendments to the Act were released in February 2004. Proposed amendments to subparagraph (a)(i) of the definition of “designated educational institution” in subsection 118.6(1), if enacted, would apply to the 1998 and subsequent taxation years. Under ¶ 27(a), the responsible Quebec minister would be renamed to the Minister of Education of the province of Quebec and the Quebec statute would be renamed as an Act respecting financial assistance for education expenses, R.S.Q., c. A-13.3.*

## **Form T778 and receipts**

¶ 28. A claim for **child care expenses** is made by filing with the claimant’s return a completed Form T778, *Child Care Expenses Deduction*. Receipts for **child care expenses** are not required to be sent with the claimant’s return. When the claimant’s return is filed electronically (“E-filed”), the requirement to file Form T778 is also waived. However, these documents should nevertheless be retained and readily available as the CRA has the authority under subsection 220(2.1) to subsequently request them as proof of the claims being made or in support of the information being reported.

Every receipt for **child care expenses** should be made out to the individual who paid the **child care expenses**. When the child care services are provided by an individual resident in Canada, the receipt must show the caregiver’s social insurance number.

## **Other situations**

¶ 29. The definition of **child care expense** in subsection 63(3) requires that the expense be incurred for child care services provided in Canada by a resident of Canada. However, there are two exceptions to this rule:

- Under section 64.1, a taxpayer who is, throughout all or a part of a taxation year, not physically present in Canada, but who nevertheless continues to be resident in Canada for income tax purposes (i.e., a factual or a deemed resident of Canada), is not subject to the “in Canada” requirement. Accordingly, such a taxpayer is allowed to deduct payments for child care services provided outside Canada by a non-resident if the other requirements in section 63 are met.
- In certain circumstances, subsection 63(4) deems amounts paid for child care services provided in the United States to a taxpayer residing in Canada near the Canada-United States boundary to be eligible **child care expenses** for the purposes of section 63. The child care services must be provided at a place that is closer to the taxpayer’s principal place of residence by a reasonably accessible route, having regard to the circumstances, than any place in Canada where such child care services are available. Subsection 63(4) does not apply to expenses paid for a child’s attendance at a boarding school or camp outside Canada.

## **Impact of child care expense claims**

### ***Child tax benefit supplement***

¶ 30. A claim for **child care expenses** under section 63 may reduce an individual’s entitlement to the child tax benefit supplement under subsection 122.61(1). The supplement, which is available for each qualified dependant who is under 7 years of age at the start of each month, is reduced by 25% of the **child care expenses** deducted under section 63 for all qualified dependants by the individual or the individual’s “cohabiting spouse or common-law partner” (as defined in section 122.6).

### ***Disability tax credit supplement***

¶ 31. A claim for **child care expenses** under section 63 may reduce an individual’s entitlement to a disability tax credit supplement under subsection 118.3(1), which is available for certain individuals under 18 years of age at the end of the year who have a severe and prolonged mental or physical impairment. The supplement is reduced by the excess, over a certain threshold, of the total **child care expenses** paid in the year and claimed for income tax purposes in respect of the child.

## *Explanation of Changes*

### **Introduction**

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

### **Reasons for the Revision**

This bulletin updates the former IT-495R2, which discussed the income tax treatment of **child care expenses**. It has been revised primarily to reflect amendments in the *Income Tax Act* up to and including S.C. 2004, c. 24.

### **Legislative and Other Changes**

Changes to the *Summary* reflect new maximum amounts that may be deducted for **child care expenses** for **eligible children**.

¶ 1 has been revised pursuant to the new definition of **child care expense** at subsection 63(3).

New ¶ 4 discusses the term day sports school.

¶ 5 (former ¶ 3) includes a reference to the new **periodic child care expense amount**.

¶ 7 (former ¶ 5) reflects the amendment to the definition of **eligible child**, which raises the qualifying age to 16.

New ¶ 9 defines spouse and **common-law partner**. References to common-law partners have been added throughout the bulletin. Draft amendments which, if enacted, will revise the definition of **common-law partner** for the 2001 and subsequent taxation years are discussed in an italicized note.

New ¶ 11 discusses the new **annual child care expense amount**.

New ¶ 12 explains the new **periodic child care expense amount**.

¶ 17 (former ¶ 12) reflects amended subsection 63(2) which allows the higher income taxpayer to deduct **child care expenses** during a period when the **supporting person** with the lower income was a student in attendance at a **designated educational institution** or secondary school and enrolled in a part-time educational program. Draft amendments which, if enacted, will require that certifications by medical doctors as described at ¶ 17(b) be in writing are discussed in an italicized note.

¶ 18 (former ¶ 13) provides an expanded discussion of **child care expense** deductibility in shared custody situations.

New ¶s 19 and 26 have been added to explain how additional **child care expenses** for periods during which the taxpayer was a student in attendance at a **designated educational institution** or secondary school enrolled in a full-time or part-time program may now be deductible under subsection 63(2.2).

New ¶ 20 discusses full-time and part-time programs.

¶ 21 (former ¶ 14) has been revised to reflect the changes to the general calculation of **child care expenses** deductible under subsection 63(1).

¶ 22 (former ¶ 17) has been revised to include, in the definition of **earned income**, governmental financial assistance, fellowships and prizes. Subsection 81(4) payments for volunteer services, which may be excluded from income, may be included in the **earned income** calculation if they are otherwise eligible amounts as described in this paragraph.

¶ 24 (part of former ¶ 15) has been modified to reflect the new calculation of **child care expenses** for the higher income taxpayer, which may be limited under subsection 63(2).

New ¶ 27 provides a definition of the term **designated educational institution**. Draft amendments which, if enacted, will revise the definition for the 1998 and subsequent taxation years are discussed in an italicized note.

New ¶ 31 is a discussion of an individual's entitlement to the disability tax credit supplement under subsection 118.3(1) which may be reduced by claims for **child care expenses** under section 63.

Throughout the bulletin, we have made other changes for clarification or readability purposes.