Incapacitated Child Tax Credit

Section 465 Taxes Consolidation Act (TCA) 1997

Part 15-01-05

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Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

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1. Introduction

Section 465(1) of the Taxes Consolidation Act 1997 provides for a tax credit of €3,300 in the case of a child who meets the following conditions:

a) is under the age of 18 years and is permanently incapacitated by reason of mental or physical infirmity, or

b) if over the age of 18 years at the start of the year

- is permanently incapacitated by reason of mental or physical infirmity from maintaining himself or herself and had become so permanently incapacitated before he or she had attained the age of 21 years, or
- had become so permanently incapacitated after attaining the age of 21 years but while he or she had been in receipt of full-time instruction at any university, college, school or other educational establishment.

Note: "full time instruction" includes undergoing training for a trade or profession for a period of not less than two years.

The tax credit can also be claimed where a claimant has custody of an incapacitated child and maintains that child at his or her own expense e.g. step-child, adopted child, foster child.

Where more than one child is permanently incapacitated, a tax credit may be claimed in respect of each child who satisfies the conditions as set out in section 465 TCA 1997.

2. Who can claim the Incapacitated Child Tax Credit

Where the child is maintained by one person only, that person is entitled to claim the full amount of the tax credit. However, where the child is maintained by more than one person, the tax credit is divided between them in proportion to the amount expended by each person towards the maintenance of the child.

When determining the amount of payment made by a person towards the maintenance of a child, any amount that the person is entitled to deduct in computing their total income for tax purposes is ignored.

A claimant may claim either this tax credit or the dependent relative tax credit (section 466) but not both in respect of the same child. The dependent relative tax credit may be claimed where the incapacitated child lives with the claimant and, due to old age or infirmity, the claimant relies on the services of the incapacitated child (the following link to the Revenue website Dependent Relative Tax Credit and Tax and Duty Manual Part 15-01-27 provide further details on the Dependent Relative Tax Credit).

3. Conditions for the Incapacitated Child Tax Credit

Section 465 of the TCA 1997 specifies that a child under the age of 18 years shall be regarded as permanently incapacitated by reason of mental or physical infirmity **only** if the infirmity is such that there would be a reasonable expectation that, if the child were over the age of 18 years, the child would be incapacitated from maintaining himself or herself.

A child who is aged 18 years or over must be unable to maintain himself or herself because of continuing mental or physical infirmity.

Note: 'Maintaining', for the purpose of this tax credit, means an ability to support oneself by earning an income from working. It is necessary also to consider the extent to which the child has the capacity for independent living based on their health condition or disability or, will have the capacity for independent living when over 18.

A doctor's certificate or similar medical report should be submitted with all initial claims containing the following information:

- The date the incapacity first arose.
- The degree and extent of the incapacity.
- In the case of a child under the age of 18 years whether the child may be regarded as permanently incapacitated by reason of mental or physical infirmity i.e. the infirmity is such that, if the child were over the age of 18 years, there would be a reasonable expectation that the child would be incapacitated from maintaining himself or herself, and
- In the case of a child over 18 years at the commencement of the year, whether the child is permanently incapacitated by reason of mental or physical infirmity from maintaining himself or herself on an ongoing basis.

Factors which should be taken into account in deciding whether or not a child has a capacity to "maintain" himself or herself include:

- the severity of the mental or physical condition,
- the extent to which the child has the capacity for independent living,
- in the case of a child under the age of 18,

  (i) the likelihood that the condition could, by the age of 18, be improved or ameliorated by any treatment, device, medication or therapy,

  (ii) the extent to which the child, by the age of 18, would have the ability or potential to support himself or herself by earning an income from working,

  (iii) the extent to which, by the age of 18, the child would have the capacity for independent living.

Where an infirmity can be treated over time to the point that there is a reasonable expectation that the child will be able to earn an income from working, it should not be accepted that the child is permanently incapacitated from maintaining himself or herself under section 465 TCA 1997. Examples include diabetes, which can be managed, for example, by insulin, and coeliac disease and other such conditions that can be managed with appropriate treatment. A child suffering from dyslexia should not be regarded as permanently incapacitated by reason of mental or physical infirmity as there is a reasonable expectation that this condition would not prevent him or her from maintaining himself or herself.

There are many other conditions which, through medical treatment or intervention, can be improved or ameliorated over time to the point that the condition would not limit the ability of a child to maintain himself or herself through earning an income from working. Where that is the case, this tax credit does not apply.

4. How to claim the Tax Credit

PAYE customers can make a claim in the current tax year using PAYE Services in myAccount as follows:

- sign into myAccount
- click on 'Manage your tax 2021'
- select 'add new credits'
- select 'You and your family' and 'Incapacitated Child Tax Credit'
- complete the required fields and upload the from ICC2.

You can also make a claim for previous years using myAccount.

2020 and subsequent years:

- sign into myAccount
- click on 'Review your tax 2017-2020'
- request 'Statement of Liability'
- click on 'Complete your Income Tax Return'
- in the 'Tax Credits & Reliefs' page, select 'You and your family' and 'Incapacitated Child Tax Credit'
- complete and submit the form.

You should upload Form ICC2 when making your claim as this may be required to approve your claim. You must keep a copy of these forms for six years once you have made a claim.

If you are unable to access myAccount, you can claim the credit by completing Form ICC1 in respect of the qualifying child. You must also provide a certified Form ICC2 from the child's medical practitioner. You can send both forms to your local Revenue Office.

Self-assessed individuals can claim the tax credit by completing the Incapacitated Child Tax Credit section on their Form 11 annual tax return at the end of the year.

As a claim may be selected for future examination, all supporting documentation relating to a claim should be retained for a period of six years from the end of the tax year to which the claim relates.

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