

**EVALUATION OF THE COMPLETENESS OF THE 2010  
LIST OF QUALIFYING DISABILITY EXPENDITURE:  
AN EXPLORATORY STUDY**

by

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### ***“WELCOME TO HOLLAND***

***by Emily Perl Kingsley***

*I am often asked to describe the experience of raising a child with a disability - to try to help people who have not shared that unique experience to understand it, to imagine how it would feel. It's like this ...*

*When you're going to have a baby, it's like planning a fabulous vacation trip - to Italy. You buy a bunch of guide books and make your wonderful plans. The Colosseum. The Michelangelo David. The gondolas in Venice. You may learn some handy phrases in Italian. It's all very exciting.*

*After months of eager anticipation, the day finally arrives. You pack your bags and off you go. Several hours later the plane lands. The stewardess comes in and says, "Welcome to Holland."*

*"Holland?!?" you say. "What do you mean Holland?? I signed up for Italy! I'm supposed to be in Italy. All my life I've dreamed of going to Italy."*

*But there's been a change in the flight plan. They've landed in Holland and there you must stay.*

*The important thing is that they haven't taken you to a horrible, disgusting, filthy place, full of pestilence, famine and disease. It's just a different place.*

*So you must go out and buy new guide books. And you must learn a whole new language. And you will meet a whole new group of people you would never have met.*

*It's just a different place. It's slower-paced than Italy, less flashy than Italy. But after you've been there for a while and you catch your breath, you look around ... and you begin to notice that Holland has windmills ...and Holland has tulips. Holland even has Rembrandts.*

*But everyone you know is busy coming and going from Italy ... and they're all bragging about what a wonderful time they had there. And for the rest of your life, you will say "Yes, that's where I was supposed to go. That's what I had planned."*

*And the pain of that will never, ever, ever, ever go away ... because the loss of that dream is a very, very significant loss.*

*But ... if you spend your life mourning the fact that you didn't get to Italy, you may never be free to enjoy the very special, the very lovely things ... about Holland."*

## ABSTRACT

# EVALUATION OF THE COMPLETENESS OF THE 2010 LIST OF QUALIFYING DISABILITY EXPENDITURE: AN EXPLORATORY STUDY

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A disabled taxpayer, or a taxpayer caring for a disabled spouse or child, may deduct 100% of disability expenses from taxable income (section 18(2)(b) of the Income Tax Act No. 58 of 1962).

For a 2010 year of assessment, disability expenses must meet the following three requirements to be deductible:

- The expense should appear on the **prescribed list**.
- It should have been **necessarily incurred and paid** for (and not recoverable) by the taxpayer.
- It should have been incurred **in consequence of** any physical disability suffered by the taxpayer, his or her spouse or child, or any dependant of the taxpayer.

If compared to a 2009 year of assessment, the second and third requirements remained the same. However, the prescribed list only became effective as from 1 March 2009 (*i.e.* as from the 2010 year of assessment). According to the discussion paper issued by SARS, the prescribed list was introduced to bring clarity as to the type of expenses that qualify

and not to add another requirement. The expectation therefore arises that ALL expenses that meet the second and third requirements will appear on the prescribed list.

The study explored the possible existence of an expense which had been necessarily incurred and paid by a South African taxpayer during his or her 2010 tax year in consequence of his or her disabled child, but which does not appear on the prescribed list.

Data was collected by the researcher by using a questionnaire when having semi-structured telephonic interviews with parents of severely disabled children. The results of the study indicate that there were indeed legitimate expenses incurred by the respondents during their 2010 year of assessment that did not appear on the prescribed list. The prescribed list therefore does not cater for all the possible legitimate expenses incurred by the parent of a severely disabled child.

Keywords:

*Child*

*Disability*

*Disability expenses*

*Disabled*

*Parent*

*Prescribed list*

*Taxpayer*

*SARS*

## OPSOMMING

# EVALUASIE VAN DIE VOLLEDIGHEID VAN DIE 2010 LYS VAN KWALIFISERENDE GESTREMDHEIDSKOSTES: 'N VERKENNENDE STUDIE

deur

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'n Gestremde belastingpligtiges, of belastingpligtiges wat 'n gestremde gade of kind versorg, mag 100% van gestremdeheidsuitgawes aftrek in die berekening van hul belasbare inkomste (artikel 18(2)(b) van die Inkomstebelastingwet No. 58 van 1962).

Vir 'n 2010 jaar van aanslag moes die gestremdeheidsuitgawes aan die volgende drie vereistes voldoen het om aftrekbaar te wees:

- Die koste moes op die **voorgeskrewe lys** verskyn.
- Die belastingpligtige moes dit **noodsaaklikerwys aangegaan en betaal** het (en dit mag nie verhaalbaar wees nie).
- Dit moes **as gevolg van 'n gestremdheid** van die belastingpligtige, van sy of haar gade of kind, of van 'n afhanklike van die belastingpligtige aangegaan gewees het.

Indien vergelyk word met 'n 2009 jaar van aanslag, het die tweede en derde vereistes dieselfde gebly. Die voorgeskrewe lys het egter eers vanaf 1 Maart 2009 (dit wil sê vanaf die 2010 jaar van aanslag) in werking getree. Volgens die besprekingsdokument wat deur die SAID uitgereik is, is die doel van die voorgeskrewe lys om duidelikheid te verskaf aangaande die tipe uitgawes wat kwalifiseer en nie om 'n vereiste by te voeg nie. Die

verwagting ontstaan dus dat ALLE uitgawes wat aan die tweede en derde vereistes voldoen, op die voorgeskrewe lys sal verskyn.

Die studie ondersoek die moontlikheid dat 'n koste wat noodsaaklikerwys deur Suid-Afrikaanse belastingpligtiges tydens hul 2010 jaar van aanslag as gevolg van hul gestremde kinders aangegaan en betaal is, nie op die voorgeskrewe lys verskyn nie.

Data is deur die navorser met behulp van 'n vraelys tydens semi-gestruktureerde telefoniese onderhoude met ouers van erg gestremde kinders ingesamel. Die resultate van die studie dui daarop dat daar wel geldige uitgawes deur die respondente tydens hulle 2010 jaar van aanslag aangegaan is wat nie op die voorgeskrewe lys verskyn nie. Die voorgeskrewe lys maak dus nie voorsiening vir alle moontlike geldige uitgawes wat deur die ouer van 'n erg gestremde kind aangegaan is nie.

Sleutelwoorde:

*Kind*

*Gestremdheid*

*Gestremdheidskoste*

*Gestremd*

*Ouer*

*Voorgeskrewe lys*

*Belastingpligtige*

*SAID*

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## CHAPTER 1

### INTRODUCTION

#### 1.1 BACKGROUND INFORMATION

Data collected as part of Census 2001<sup>1</sup> estimates that 2 255 982 people in South Africa live with a disability, this equates to 5% of the population (Statistics South Africa, 2005:11). These include visual, physical, hearing, emotional, intellectual and communication disabilities and restrain the ability of these individuals to perform daily activities (Statistics South Africa, 2005:14) and may lead to some costly expenses (Cowan, 1998:147). A child with a disability may need to attend a special school located far from home, may need a full-time facilitator and may regularly need various types of therapy (Gersh, 1998:84). Such a child may also require an orthopaedic device such as a standing frame and walking frame, as well as an alternative communication device (Anderson, 1998:117-119). Apart from the restriction on a person's daily functioning, a disability may lead to certain health care expenses to enable the disabled person to function as normal as possible (Gersh, 1998:28).

In the case of a disabled taxpayer belonging to a medical scheme, some of these health care expenses may be covered by the medical scheme. During 2010, 16% of the South African population were members of private medical schemes and 84% relied on the government's public health sector (Campbell, 2010:57). SARS recognises that these (very high) contributions to medical schemes, as well as other medical expenses, have a direct impact on a taxpayer's ability to pay tax (SARS, 2009:1). The Income Tax Act No. 58 of 1962 (hereafter called "the Act") specifically prohibits the deduction of costs relating to the maintenance of a taxpayer or his family (section 23(a)) and private or domestic expenses (section 23(b)) in the calculation of taxable income.

However, some of these medical scheme contributions and other medical expenses incurred by individuals may be allowed as a deduction for normal tax purposes

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<sup>1</sup> This was the most recent census; the next census takes place on 10 October 2011.

notwithstanding the prohibition on maintenance, private and domestic expenses (section 18(2)). In the case of a disabled taxpayer, or a taxpayer caring for a disabled spouse or child, 100% of qualifying expenses (as listed in section 18(1)(a) to (d)) may be deducted from taxable income (section 18(2)(b)).

In the case of a disability, qualifying costs includes expenditure necessarily incurred and paid in consequence of a disability (section 18(1)(d)). As from the 2010 year of assessment (that is for the period 1 March 2009 to 28 February 2010), SARS has introduced a pre-determined list (hereafter called “the prescribed list”) of expenditure associated with disabilities. Although a draft list was made available as part of a discussion paper during October 2009 (SARS, 2009:5-15), the final list was only published after the end of the 2010 year of assessment (namely on 21 April 2010) (SARS, 2010a:1-8).

The allowed deduction of medical scheme contributions and qualifying medical costs provides tax relief, but it should be noted that the relief is equal only to the taxpayer’s marginal tax rate.

## 1.2 RATIONALE FOR THE STUDY

As already mentioned, a taxpayer who has or whose spouse or child has a physical disability can claim disability expenses in full for normal tax purposes. Disability expenses will only qualify for deduction if certain requirements are met (section 18(1)(d)). Table 1 compares the requirements applicable to a 2010, 2011 and 2012 year of assessment to a 2009 year of assessment:

**Table 1: Comparison of section 18(1)(d) requirements for different years of assessment**

2010, 2011 and 2012	2009
“notwithstanding the provisions of section 23...	“notwithstanding the provisions of section 23...
...any expenditure <b>that is prescribed by the Commissioner</b> (other than expenditure recoverable by the taxpayer or his or her spouse)	...any expenditure  (other than expenditure recoverable by the taxpayer or his or her spouse)
necessarily incurred and paid by the taxpayer	necessarily incurred and paid by the taxpayer
in consequence of any physical <b>impairment or</b>	in consequence of any physical

2010, 2011 and 2012	2009
disability suffered by the taxpayer, his or her spouse or child, or any dependant of the taxpayer..." (own emphasis).	disability suffered by the taxpayer, his or her spouse or any child, or any dependant of the taxpayer..." (own emphasis).

For a 2010 year of assessment three requirements must be met, namely:

- The expense should appear on the **prescribed list**.
- It should have been **necessarily incurred and paid** for (and not recoverable) by the taxpayer.
- It should have been incurred **in consequence of** any physical impairment or disability suffered by the taxpayer, his or her spouse or child, or any dependant of the taxpayer.

The first requirement, the prescribed list, only came into effect as from 1 March 2009 (*i.e.* as from the 2010 year of assessment). The prescribed list (Appendix A) contains nine broad categories of expenses (SARS, 2010a:2-8). Although these categories are not numbered in the original document, they were numbered as follows for ease of reference in this study:

- Category 1: Attendant care expenses.
- Category 2: Travel and other related expenses.
- Category 3: Insurance, maintenance, repairs and supplies.
- Category 4: Artificial limbs or organs and other.
- Category 5: Aids and other devices (excluding motor vehicles, security systems, swimming pools and other similar assets).
- Category 6: Services.
- Category 7: Products required because of incontinence.
- Category 8: Service animals.
- Category 9: Alterations or modifications to assets acquired or to be acquired.

Categories 1, 2, 5, 6, 8 and 9 contain a basic description of the type of expense envisaged and a list of examples. Category 3 contains only a basic description without any examples, whereas categories 4 and 7 each only list four allowable expenses.

An expense appearing on the list will **not** automatically qualify for deduction; the second and third requirements must also be met. It is important to emphasise that both the second and third requirement remained the same, namely that the expense must have been **necessarily incurred and paid in consequence of** a disability. However, the term “physical disability” was replaced by “physical **impairment or** disability”. The Act defines a disability (section 18(3)), whereas an impairment is not defined in the Act. A disability results in a moderate to severe limitation of a person’s ability to function or perform daily activities. Although not defined in the Act, an impairment is interpreted by SARS to be (after maximum medical correction) less restraining than a disability and the impact on the performing of daily activities below moderate to severe (SARS, 2009:3).

Although expenses in consequence of an impairment is included in qualifying medical costs (section 18(1)(d)), it does not result in a 100% deduction as in the case of a disability. The qualifying expenses will only be deductible to the extent that the amount exceeds 7.5% of the taxpayer’s taxable income. This study focused on disability expenses and specifically on disability expenses incurred by a parent caring for a disabled child. Impairment expenses did not form part of this study. Furthermore, this study did not critically evaluate the definition of “disability” as contained in the Act.

It is therefore clear that the only differences between a 2010 and 2009 year of assessment is the introduction of the prescribed list and the addition of the word “impairment”. Apart from these changes, the requirements remained the same for the 2010 and 2009 years of assessment. According to the discussion paper issued by SARS, the prescribed list and the new terminology were introduced to bring clarity as to the type and quantum of expenses which qualify under section 18(1)(d) (SARS, 2009:2) and not to include another filter for the purposes of section 18(1)(d).



The expectation therefore arises that ALL expenses which meet the second and third requirements (thus being necessarily incurred and paid in consequence of a disability) will appear on the prescribed list. According to SARS, "... care was taken to ensure that it [the list] does not exclude a legitimate expense ..." (SARS, 2010c:1). It seems as if a legitimate expense in the context of this study refers to an expense necessarily incurred and paid for by a parent in consequence of his child's disability. This is also the reason given (SARS, 2010c:1) that, instead of a comprehensive list, broad categories were rather identified with examples of expenses that can be claimed.

Thus, the problem envisaged in this study, was that a disability expense may indeed meet requirements two and three **without** falling into any one of the nine mentioned categories making up the prescribed list. Such an expense will then **not** qualify for deduction as requirement one has not been met (SARS, 2009:5).

An extensive search of leading electronic databases (EbscoHost, Proquest and Sabinet) indicated that no academic research had been performed to address the above problem.

### **1.3 RESEARCH OBJECTIVE**

The primary objective of this study was to evaluate the completeness of the 2010 prescribed list from the perspective of a parent caring for his or her disabled child. The aim of the study was not to test all the different types of disability expenses that can be incurred by a parent in respect of a disabled child. The aim was therefore not to create a complete list of disability expenses, but merely to determine if there is any type of expense that does not appear on the prescribed list. This will then prove that the list is in fact incomplete.

The study therefore explored the possible existence of an expense which had been necessarily incurred and paid by a South African taxpayer during his 2010 tax year in consequence of his disabled child, but which did not fall into any one of the categories making up the prescribed list for the 2010 year of assessment.

The following secondary objectives were set for this study to assist in achieving the primary objective:

- To determine the meaning of the phrases “necessarily incurred and paid” and “in consequence of”.
- To develop a questionnaire to be used by the researcher for semi-structured interviews with parents.
- To conduct semi-structured interviews with parents caring for their disabled children.
- To obtain a list of expenses claimed as a deduction in the 2010 income tax returns as expenses which such parents had necessarily incurred and paid in consequence of their children’s disabilities but which did not appear on the prescribed list.

#### **1.4 IMPORTANCE AND BENEFITS OF THE STUDY**

This is the first known study investigating the completeness of the prescribed list. The results of this study can contribute to convince SARS to review and possibly expand its prescribed list (SARS, 2009:3).

The definitions of key terms will then be provided followed by delimitations and assumptions that applied to the study.

#### **1.5 DEFINITION OF KEY TERMS AND ACRONYMS USED**

A number of key terms are relevant to this study. The definitions of these terms, as applied to this study, are set out below:

**Child of the taxpayer:** In the context of this study, meaning any child of the taxpayer or the taxpayer’s spouse, including an adopted child (definition of “child” in section 1). A disabled child must be unable to maintain himself due to his disability and must be partially or wholly dependent for his maintenance on the taxpayer, regardless of the child’s age. Furthermore, the disabled child must not be liable for the payment of normal tax for the relevant year of assessment, except for employees’ tax levied in the form of SITE (section 18(4)(b)).

**Disability:** A physical, visual, hearing, communication, intellectual or mental limitation (or any combination thereof) causing a moderate to severe limitation on a person’s ability to function or perform daily activities. This (one or more) limitation must have lasted or has a

prognosis of lasting more than a year. The limitation must be diagnosed by a duly registered medical practitioner in accordance with criteria prescribed by the Commissioner (as set out in form ITR-DD included as Appendix B) based on the functional impact of the limitation as opposed to the medical diagnosis thereof (section 18(3), SARS, 2010b:3).

**Disabled child:** Meaning any child (as defined above) living with a disability (as defined above).

**Prescribed list:** The list of qualifying disability expenditure applicable to an individual taxpayer's 2010 year of assessment as published by SARS on 21 April 2010. The list contains nine broad categories of disability expenses. Although the categories are not numbered in the original document, the researcher numbered the categories for ease of reference (Appendix A).

A proposed list was made available during October 2009 and was open for public comment until 26 November 2009 (SARS, 2009:4). This prescribed list remained the same for the 2011 and 2012 years of assessment.

**Qualifying expenses:** Contributions to a medical scheme (section 18(1)(a)), amounts paid for medical services, amounts paid to hospitals and nursing homes, as well as amounts paid for prescribed medication (section 18(1)(b) and (c)). Disability expenses which appear on the prescribed list and which were necessarily incurred and paid in consequence of a physical disability of the taxpayer, his or her spouse, dependant or child are also included (section 18(1)(d)). In the case of a taxpayer who has or whose spouse or child has a disability, 100% of the qualifying expenses is allowed as a deduction (section 18(2)(b)).

Note that any costs which have been recovered by the taxpayer, for example from a medical scheme, will not be included. It is also important to note that disability expenses may include non medical related costs, for example computer and electronic equipment, speech generating devices and mobile ramps.

**Spouse:** "... A person who is the partner of another person in:

- A marriage or customary union recognised in terms of the laws of the Republic; or
- A union recognised as a marriage under any religion; or
- A same sex or heterosexual union which the Commissioner is satisfied is intended to be of a permanent nature ...” (definition in section 1).

**Taxpayer:** For purposes of this study means an individual who was registered as a taxpayer with SARS for the 2010 year of assessment. In other words, a deduction of qualifying disability expenses incurred and paid in respect of the disabled child of the parent, would have reduced the parent’s taxable income. Even if the parent was in an assessed loss position at the end of his 2010 year of assessment, the deduction would have increased his assessed loss (Van Schalkwyk, 2009b:299). In other words, the benefit is merely postponed to a subsequent tax year in which he can offset his tax loss against other taxable income. Parents who earn taxable income below the tax threshold for the 2010 year of assessment were not included in this study.

**The Act:** Any reference in this study to sections, are to sections in the Income Tax Act No. 58 of 1962, unless stated otherwise.

The following acronym was used throughout this study:

**SARS:** South African Revenue Service

## 1.6 DELIMITATIONS OF THE STUDY

Any reference in this study to the masculine gender includes the feminine gender and *vice versa*.

This study focused on disability expenses (section 18(1)(d)); the other three elements of qualifying medical expenses (section 18(1)(a), (b) and (c)) did not form part of this study. The specific scenario of a parent incurring and paying expenditure in caring for a child with a disability was explored. Furthermore this study focused on disability expenses; expenses related to impairment were not explored. Furthermore, the study did not critically evaluate the criteria set out in form ITR-DD in order to determine whether or not a person is disabled (as defined in section 18(3) of the Act).

Data was collected by the researcher by means of semi-structured interviews with parents of children attending a private centre located in Centurion, Gauteng. The children who attend this centre have at least one disability. A private centre was used as opposed to a government school as these parents are expected to be taxpayers as defined for this study. Furthermore, a private centre is not subsidised by the state and parents will have to pay for all health care services provided at the school. It is important to note that it was not the purpose of the study to generalise the conclusions reached in this survey to the whole of the South African population of taxpayers caring for children with a disability.

In addition, the aim of the study was not to test all the different types of disability expenses that can be incurred by a parent in respect of a disabled child. The aim was to identify any type of expense that should appear on the prescribed list, but which does not.

Whether or not the expenses identified in this study (as expense that should appear on the prescribed list) were allowed as a deduction on assessment did not form part of this study. The reason is that the purpose of this study was merely to evaluate the completeness of the prescribed list and not to test SARS's enforcement of the prescribed list.

The deductibility of disability expenses under the general deduction formula (section 11(a)) was not considered in this study. Section 18 allows a deduction for disability expenses and the general deduction formula may not be used where a special deduction (such as section 18) exists in the Act. Any portion of the disability expense not allowed under section 18 may also not be claimed under the general deduction formula (section 23B). However, where expenses fall outside the scope of section 18 due to the nature thereof, it appears as if the general deduction formula could still be used. A deduction will of course only be allowed if all the requirements are met and if the expense is not prohibited due to it being related to the maintenance of the taxpayer and his family, private or domestic expenses or not for trade purposes (section 23).

Legislation applicable to a 2010 year of assessment was considered for purposes of this study.

## **1.7 ASSUMPTIONS**

This study assumed that parents of disabled children will incur expenses to aid their disabled children, even if not covered by a medical scheme. It also assumed that taxpayer-parents would want to minimise their normal tax liability by claiming all qualifying disability expenses in their 2010 tax return.

It was further assumed that parents of disabled children would have claimed in their 2010 tax return disability expenses necessarily incurred and paid in consequence of a disability suffered by their child, irrespective of whether or not the specific expense appear on the prescribed list. This was considered a reasonable assumption to make as the list was introduced as from the 2010 year of assessment and, as explained above, was not meant to add another requirement or filter in determining which expenses qualify for deduction.

## **1.8 SUMMARY**

This chapter provides the background and rationale for the study. The primary research objectives, as well as secondary objectives, were stated and the importance of the study was explained. Key terms were defined and the limitations and assumptions of the study were explained.

Chapter 2 contains a literature search. The meaning attached to the phrase “necessarily incurred and paid in consequence of” was investigated. In Chapter 3 the research design and methodology of the study, as well as the sample size and the sampling method, the method of data collection and the validity and limitations of the data collected, are explained. In Chapter 4 the results are analysed and in Chapter 5 a conclusion is drawn for the study.

## CHAPTER 2

### LITERATURE SEARCH

#### 2.1 INTRODUCTION

It was explained in Chapter 1 that any expense necessarily incurred and paid by a parent in consequence of a disability of his child can be claimed by the parent for normal tax purposes, provided that the expense appears on the prescribed list (section 18(1)(d) read with section 18(2)(b)).

The problem envisaged in this study was that a specific expense may indeed have been necessarily incurred and paid by a parent in consequence of the child's disability, **without** falling into any one of the categories making up the prescribed list. Such an expense would then **not** have qualified for deduction in the parent's 2010 year of assessment (SARS, 2009:5). The same type of expense might, however, have qualified for deduction in the 2009 year of assessment, before the prescribed list was introduced.

It is therefore crucial for purposes of this study to understand when an expense was "necessarily incurred and paid in consequence of" the child's disability.

The words **necessarily, incurred, paid** and **in consequence of** are not defined in the Act and should therefore be given their ordinary meaning as described in dictionaries and the meaning laid down by the courts in case law (Blue Circle Cement Ltd v Commissioner for Inland Revenue, 1984:24; SARS, 2010a:1). The ordinary meaning of these words is explored in this chapter.

Thereafter case law dealing with the deductibility of disability expenses will be analysed. The outcomes of these cases are also tested against the wording of the Act applicable to a 2010 year of assessment in order to analyse the impact of the introduction of the prescribed list.

## 2.2 THE MEANING OF “NECESSARILY INCURRED AND PAID IN CONSEQUENCE OF”

### 2.2.1 The meaning of *necessarily*

The word **necessarily** indicates cause or reason (Cambridge Advanced Learner’s Dictionary, Not dated). It means “as a necessary result or inevitably or unavoidable” (AskOxford.com, Not dated). SARS agrees that the expense must be “**necessary** for the alleviation of the restrictions on a person’s ability to perform daily functions” (own emphasis) (SARS, 2010a:1). Therefore, in the context of this study the expense incurred by the parent should have been caused by or should be by reason of the child’s disability. The expense should be a necessary result of, or inevitably or unavoidable, to help the disabled child to perform activities that would otherwise not have been possible taking the type of disability into account.

### 2.2.2 The meaning of *incurred*

In *Edgars Stores Ltd v Commissioner for Inland Revenue*, 50 SATC 81, it was held that the word **incurred** means that “an unconditional legal obligation” must exist (1988:90). In the context of this study the parent must have a legal obligation or be liable to settle the disability expense. The onus of proof is on the taxpayer to prove that the expense does indeed qualify as a deduction (section 82) and the taxpayer should therefore retain the relevant documentary proof. The invoice should be made out in the taxpayer’s name.

### 2.2.3 The meaning of *and paid*

The expense must be incurred **and paid** by the taxpayer. Although the Act does not specify that both the incurral and payment must be in the current year of assessment, it appears that it could mean that payment must also have taken place in the current year of assessment (De Koker, 2010:1).

The onus of proof is on the taxpayer (section 82) and therefore the taxpayer should retain the relevant documentary proof indicating payment by him. The type of documentary proof will depend on the payment method. This can include credit card slips signed by the taxpayer, proof of electronic fund transfer (“EFT”) out of the taxpayer’s bank account, the taxpayer’s bank statements showing a payment by credit card or EFT, a receipt made out in the taxpayer’s name or statements from suppliers indicating payment by the taxpayer.



Cash payments are more difficult to prove: a receipt made out in the taxpayer's name will be sufficient, but a till slip does not prove payment by the taxpayer. Furthermore, it is not clear whether or not the taxpayer should be able to prove the origin of the cash.

#### **2.2.4 The meaning of *in consequence of***

In order to understand the meaning of the phrase “in consequence of”, the meaning of the word “consequence” was first considered. The word **consequence** indicates a result of a particular situation (Cambridge Advanced Learner's Dictionary, Not dated), or importance or relevance (AskOxford.com, Not dated). SARS (2010a:1) interprets it to mean that the expense must be **directly** linked to the specific type of disability. It therefore follows that the phrase “**in consequence of**”, means that the expense must arise as a direct result of the specific type of disability listed in the definition of disability (being either a physical, visual, hearing, communication, intellectual or mental limitation).

SARS (2009:5; 2010a:1) provides the following example in the introduction to the prescribed list: A talking hand-held GPS appears on the prescribed list, but to qualify for deduction, the cost of the hand-held GPS must also have been necessarily incurred and paid in consequence of the taxpayer's disability. For a blind person, the cost of a talking hand-held GPS and related software will indeed be necessarily incurred, namely, unavoidable in order to perform his daily activities. It must, however, also be a direct result of his visual disability, which it is indeed. Consequently, the cost of the GPS will qualify for deduction by the blind person. If the blind person is a child, his parent who paid for the GPS will qualify to deduct the cost thereof.

However, for a physically disabled person in a wheelchair, the talking hand-held GPS will neither be necessarily incurred nor in consequence of his disability. Even though the person in the wheelchair is indeed a person with a disability, the GPS is not unavoidable in order to perform his daily activities. This person's disability relates to the limitation of movement and not sight (SARS, 2009:5; SARS, 2010a:1). Consequently, the cost of the GPS will not qualify for deduction by the person in the wheelchair. If the person in the wheelchair is a child, his parent who paid for the GPS will not qualify to deduct the cost thereof.

## 2.3 CASE LAW

An extensive search indicated two court cases relevant for purposes of this study. Both cases deal with the deductibility of disability expenses (under section 18 of the Act) and both were decided in the Special Board (now called the Tax Board), namely:

- Special Board Decision No. 56, decided in 1996 in respect of a 1994 year of assessment.
- Special Board Decision No. 167, decided in 2002 in respect of a 1999 year of assessment.

These two cases will now be analysed after which it will be considered whether or not the same expense, had it been incurred by the same taxpayer during the 2010 year of assessment, would have qualified for deduction.

### 2.3.1 Special Board Decision No. 56 (dated 1 July 1996)

In this case, heard before the Germiston Special Board, the cost of razor wire to secure the residence of a person with a disability was allowed to be deducted as disability expenses. The taxpayer succeeded in proving that such costs were necessarily incurred in consequence of his disability. The taxpayer was physically disabled in that he had no arms. He argued that crime was very high in his area then (being during the 1994 year of assessment) and that he had to safeguard himself as he was living alone and could not handle a fire arm due to his disability (Special Board Decision No. 56, 1996:24).

### 2.3.2 Special Board Decision No. 56 applied to a 2010 year of assessment

The question now arises, if the same taxpayer with the same physical disability as in Special Board Decision No. 56, had incurred and paid an amount for razor wire in his **2010 year of assessment**, whether or not the amount would have qualified for deduction as disability expenses.

First of all the expense has to appear on the prescribed list. Category 5 of the prescribed list includes “aids and other devices, but specifically excludes motor vehicles, **security systems**, swimming pools and other similar assets” (own emphasis) (SARS, 2010a:4). The cost of razor wire does therefore not fall under this category.

Category 9 includes “alterations or modifications to assets acquired or to be acquired”. This category is further described as “... expenditure incurred and paid by the taxpayer for alterations or modifications to assets to make such assets accessible or usable by a person with a physical ... disability so that they can function or perform daily activities” (own emphasis) (SARS, 2010a:7). The fifth example listed under category 9 relates to modifications to security systems to enable a person with a disability to use or operate it. It is explained that modifications to an alarm system will qualify, for example when it is modified to, instead of a siren, a red light flashes to warn a person with a hearing disability that the alarm has been activated. It is then expressly stated below the example that “the cost of acquiring and installing the security system itself will not qualify for a deduction” (SARS, 2010a:8). The cost of the razor wire does therefore also not fall under this category. According to the researcher, these are the only two categories on the prescribed list where the cost of the razor wire could possibly fit into. The cost of razor wire is therefore not included on the list and will be disqualified for deduction in 2010.

The researcher also followed an external review process whereby a panel of six people were asked to express an opinion on whether or not the cost of the razor wire in the above scenario, appears on the prescribed list. These six people were selected purposively by the researcher and are all knowledgeable in the tax field. Five hold an Honours degree in Taxation and are currently registered for M Com (Taxation). The sixth person is in private practice, holds an M Com (Taxation) degree and is currently registered for a D Com (Taxation). This review process was coordinated by one of the five Master-students. The five of them first considered the expense individually and then had to convince one another in order to arrive at an answer for the group of five. The coordinator then compared the group’s answer to that of the sixth person. In the event of a discrepancy, they had to convince each other in order to arrive at a final answer for the review process. They agreed that the cost of the razor wire does not appear on the prescribed list (Bronkhorst, Fischer, Maritz, Meiring, Mutase & Van Oordt, 2011:5).

Although non-inclusion under the list immediately disqualifies the expense for deduction in the 2010 year of assessment, the other requirements (namely, *necessarily incurred and paid in consequence of the taxpayer’s disability*) will now be tested to illustrate the research problem addressed in this study.

The question is therefore if the same taxpayer with the same physical disability as in Special Board Decision No. 56, had incurred and paid an amount for razor wire in his **2010 year of assessment** whether the cost of razor wire can be said to be necessarily incurred and paid in consequence of his disability. The taxpayer, due to him not having arms, is unable to handle or operate a fire arm in his self-defence and he is therefore forced to take alternative security precautions such as putting razor wire on the outside walls of his property. Thus, the razor wire can be said to have been incurred in consequence of (as a direct result of) his physical disability, but was it necessary or unavoidable in order for the taxpayer to perform daily functions. In order to answer this question one would have to consider the crime situation in Germiston (where the taxpayer lives) during the period 1 March 2009 to 28 February 2010 (being the 2010 year of assessment) and decide whether or not expenses incurred for the purpose of preventing and combating crime could well be seen as a daily activity<sup>2</sup>. Again the onus of proof is on the taxpayer to proof this (section 82). If the taxpayer can proof that the answer to this question is in the affirmative, it can be concluded that the cost of the razor wire was necessarily incurred and paid in consequence of this taxpayer's physical disability.

The test applied in the 1994 year of assessment to determine whether or not disability expenses were deductible, was exactly the same as in the 2009 year of assessment, namely, necessarily incurred and paid in consequence of this taxpayer's disability. Thus, by comparing 1994 to 2010 the researcher may just as well compare 2009 to 2010 to illustrate whether or not the research problem may exist for this taxpayer.

If the assumption is that the taxpayer was able to proof that the razor wire was necessarily incurred and paid in consequence of his disability, the cost of the razor wire would not have been allowed as a deduction in the 2010 year of assessment (as it does not appear

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<sup>2</sup> According to Interpretation Note No. 45 (issued 30 June 2008), which deals with the deductibility of security expenses, the cost of the razor wire is deemed to be private or domestic expenses and will be disallowed under section 23(a) of the Act (SARS, 2008:1). However, section 18 overrides section 23 and therefore Interpretation Note 45 will be ignored.

on the list). Thus, although the same tests applied in both 1994 and 2010, the expense is disallowed due to the introduction of the prescribed list.

This proves that the research problem addressed in this study does indeed exist for this specific taxpayer. According to the discussion paper the introduction of the prescribed list will result in a wider range of expenditure qualifying for a deduction (SARS, 2009:1). This does, however, not seem to always be the case, as contended in the discussion above.

### **2.3.3 Special Board Decision No. 167 (dated 29 April 2002)**

In another Special Board hearing, a taxpayer's child was born with Down Syndrome (which was agreed by the Commissioner to be a disability) and the taxpayer claimed the costs relating to his child's facilitator, school fees, after school care centre fees, and cost of transporting the child to and from school for normal tax purposes. It is crucial to note that the child attended a **normal school** (and the after school care centre was also located at that normal school) and not a special school for disabled learners. On assessment, the Commissioner allowed only the cost of the facilitator as disability expenses; all the other costs were disallowed (Special Board Decision No. 167, 2002:41).

The parents appealed to the Special Board, but the appeal was disallowed. Although the parties agreed that the child was indeed disabled, the Special Board held that all the other expenses were not necessarily incurred in consequence of the child's disability. Due to the fact that the child attended a normal school (as opposed to a special school), all the other costs were expenses incurred in the ordinary daily maintenance of a child and would have been incurred whether or not the child was disabled. Consequently these were not disability expenses and section 18 of the Act could not be applied. The expenses were prohibited being private or domestic expenses (Special Board Decision No. 167, 2002:42). It is thus clear that no direct link between the disability and the expenses existed. Any normal child of the same age has to attend school, after school care (where parents work full-time) and needs to be transported to and from school. It was ordinary expenses incurred by a parent caring for his child and not unavoidable and directly linked to the child's disability.

#### **2.3.4 Special Board Decision No. 167 applied to a 2010 year of assessment**

The question immediately arises, if the same taxpayer with the same disabled child as in Special Board Decision No. 167 had incurred and paid the same costs relating to his disabled child during his **2010 year of assessment**, whether or not the amount would have qualified for deduction as disability expenses. The test applied in the 2002 year of assessment to determine whether or not disability expenses were deductible, were exactly the same as in the 2009 year of assessment. Thus by comparing 2002 to 2010 the researcher is effectively comparing 2009 to 2010 in order to illustrate whether or not the research problem may exist for this taxpayer.

First of all the expense has to appear on the prescribed list. The cost of a facilitator appears on the prescribed list under category 1, namely, “Attendant care expenses: Expenditure that is incurred and paid for purposes of special care, in respect of special services to assist, guide, care for a person with a physical impairment or disability, regardless of the place the services are rendered ...” (SARS, 2010a:2). The example provided in the list explains that parents of a disabled child may deduct the salary paid to someone employed to primarily look after the child, even if such person from time to time assists with housekeeping chores. However, if the person is employed to primarily perform housekeeping activities and from time to time assists with the child, the salary will not qualify for deduction (SARS, 2010a:2). Thus, the cost of employing the facilitator for the disabled child in Special Board Decision No. 167 appears on the prescribed list. The researcher followed an external review process<sup>3</sup> whereby six people were asked to express an opinion on whether or not the cost of employing the facilitator in the above scenario appears on the prescribed list. They agreed that it does appear on the prescribed list (Bronkhorst *et al.*, 2011:3).

It is also clear that the cost of employing the facilitator will still be necessarily incurred and paid in consequence of the child’s disability (as in the 2002 year of assessment). Therefore, the cost of the facilitator would also have qualified for deduction in the 2010 year of assessment and the research problem addressed in this study does not exist for this specific taxpayer in respect of the cost of employing the facilitator.

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<sup>3</sup> As explained in Chapter 2.3.2.

With regard to the cost of the child attending the normal school, the after school care centre (located at the normal school) and the cost of transporting the child to and from the normal school. Category 6 of the prescribed list should be considered, namely, “Services: Expenditure in this category refers to expenditure incurred and paid by the taxpayer for services required by a person with a physical impairment or disability so that they can function or perform daily activities” (SARS, 2010a:6). In example eight of this category it is explained that in the case of a disabled child attending a normal school, only that portion of the normal school fees equal to additional expenses charged due to the disability will be allowed (SARS, 2010a:6). Thus, as the taxpayer’s child attended a normal school with no additional expenses, it seems as if neither the school fees nor the day care centre fees would have qualified under the prescribed list, which was confirmed by way of an external review process<sup>4</sup> (Bronkhorst *et al.*, 2011:3).

With regard to the travelling cost to and from the normal school, category 2 of the prescribed list should be considered, dealing with travel and other related expenses. This category is described as “... reasonable travelling expenses ... incurred and paid by the taxpayer to acquire ... services ... required by a person with a physical impairment or disability” (own emphasis) (SARS, 2010a:3). At first it appears as if the travelling costs might fit into this general description under category 2. However, under example 2 of this category it is explained that transport costs related to a learner who attends a **special school** will be allowed, but only in circumstances where no specialised school is available in the area, suburb or town where the taxpayer lives (SARS, 2010a:3). Thus, as the taxpayer’s child attended a normal school, it appears as if none of the travelling costs would have qualified under the prescribed list. The external review process<sup>4</sup> arrived at the same conclusion (Bronkhorst *et al.*, 2011:3).

It is also evident that these expenses would still not have been necessarily incurred and paid in consequence of the child’s disability, for the same reasons as mentioned in the Special Board Decision. Therefore, these costs will also not be deductible in the 2010 year of assessment as disability expenses. This is, however, not only due to the introduction of

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<sup>4</sup> As explained in Chapter 2.3.2.

the prescribed list, but also due to the fact that a direct link was not present. The research problem addressed in this study does therefore not exist for this specific taxpayer in respect of the school fees, the day care centre fees and the travelling costs.

Therefore, the same results will be obtained in the 2010 and the 2009 (which applied the same test as in 2002) years of assessment. By introducing the prescribed list it was actually easier to arrive at the same answer, especially with reference to the three expenses being disallowed. Due to the fact that these expenses did not appear on the prescribed list, they were immediately disqualified for deduction. It was technically not even necessary to test for the requirement of *necessarily incurred and paid in consequence of*.

In this scenario, the prescribed list provided more certainty regarding the type and quantum of disability expenses that will be allowed as a deduction (SARS, 2009:2). It is, however, not true in this specific scenario, that due to the prescribed list being introduced, a wider range of expenditure qualified for deduction, as SARS claims to be the case (SARS, 2009:1).

## 2.4 CONCLUSION

In this chapter the meaning of the words **necessarily, incurred, paid and in consequence of** were explored. In the context of this study, the expense should have been caused by or should be by reason of the disability. It should be a necessary result of or inevitably or unavoidable in order to help the disabled child to perform activities that would otherwise not have been possible taking the type of disability of the child into account. Thus, the expense must be as a direct result of the specific type of disability. Thereafter, case law dealing with the deductibility of disability expenses (namely Special Board Decision No. 56 and No. 167) was analysed.

The outcomes of these cases were also tested against the wording of the Act applicable to a 2010 year of assessment, assuming that the same taxpayers as in those Special Board Decisions have incurred the same expenses in a 2010 year of assessment. This was done by analysing the impact of the introduction of the prescribed list and determining whether the research problem could exist for that specific taxpayer.



In Special Board Decision No. 56 it was proved that the research problem could indeed exist for the specific taxpayer in his 2010 year of assessment. This proved that the introduction of the prescribed list will not always result in a wider range of expenditure qualifying for a deduction, as claimed by SARS to be the case (SARS, 2009:1).

It could not be proved that the research problem could exist for the taxpayer in Special Board Decision No. 167 during his 2010 year of assessment. In this scenario the prescribed list provided more certainty regarding the type of disability expenses that will not be allowed as a deduction.

In Chapter 3 the research design and methodology of the study, as well as the sample size and sampling method, the method of data collection, and the validity and limitations of the data collected are explained. In Chapter 4 the results are analysed and in Chapter 5 a conclusion is drawn for the study.

## CHAPTER 3

### RESEARCH DESIGN AND METHODS

#### 3.1 DESCRIPTION OF INQUIRY STRATEGY AND BROAD RESEARCH DESIGN

The primary objective of this study was to evaluate the completeness of the 2010 prescribed list from the perspective of a parent caring for his disabled child. The problem envisaged in this study was that a specific expense may indeed have been necessarily incurred and paid by a parent in consequence of the child's disability, without appearing on the prescribed list. Consequently such an expense would then not have qualified for deduction in the parent's 2010 year of assessment (SARS, 2009:5). The same type of expense might have qualified for deduction in the 2009 year of assessment, before the prescribed list was introduced. The aim of the study was not to test all the different types of disability expenses that can be incurred by a parent in respect of a disabled child, but merely to determine if there is any type of expense that does not appear on the prescribed list. According to Saunders, Lewis and Thornhill, the research design is "the general plan of how you will go about answering your research question(s)" (2007:131). This chapter explains how the researcher went about answering the given research question.

This study was conducted by way of a **survey** (in the form of **semi-structured interviews** using a questionnaire) conducted by the researcher with parents of children with one or more disability. A survey is usually aimed at providing a broad overview of a representative sample of a large population (Mouton, 2001:152). It will be an **empirical study** as **primary data** will be collected and analysed to address the research objectives (Mouton, 2001:57). While applied research is aimed at directly solving a practical problem, this study is **basic research** as it was aimed at shedding light on a certain phenomenon (Leedy & Ormrod, 2005:43). According to Leedy and Ormond (2005:43) the line between basic and applied research is a blurry one, but answering questions about theoretical issues can often shed light on real life problems, as is the case in this study.

This was an **exploratory study** as the aim was to explore the existence of any expense that was necessarily incurred and paid by a parent in consequence of the child's disability,

but which does not appear on the prescribed list. The exact nature of such expenses is not known and the results of this study may form the basis for future research (Cooper & Emory, 1995:115). The study was designed for depth rather than breadth and therefore involved small scale research (a convenience sample consisting of a small group of respondents was used). According to Mouton, one of the limitations of survey research is a lack of depth which may lead to “surface level” analyses (2001:153). This limitation was addressed by researching 20 taxpayers in depth.

The researcher developed a questionnaire to be used for the semi-structured interviews. This questionnaire provided **qualitative (textual) data**, namely, a description of the nature of the expenses which were necessarily incurred and paid in consequence of a disability, but which do not appear on the prescribed list. It was aimed at establishing the nature and characteristics of such expenses and to possibly create classifications for these expenses. It will therefore also be a **descriptive study** (Cooper & Emory, 1995:116). It was a **cross-sectional study** as data was collected at a particular point in time and represented a snapshot of the problem at that time with no attempt to track the progress of the problem over time as in a longitudinal study (Cooper & Emory, 1995:116).

The study was **non-experimental** and followed an **ex post fact design** as it merely reports on the answers per the questionnaires and no variables were manipulated by the researcher in any way, in contrast with an experiment conducted in a laboratory (Cooper & Emory, 1995:115-116).

One of the strengths of survey research is the potential to generalise the results to a larger population, but only if appropriate sampling design has been implemented (Mouton, 2001:153; Hofstee, 2006:122). As explained above, a **convenience sample** was used as the aim of this study was not to generalise the results to the larger population.

## **3.2 THE POPULATION AND THE SAMPLE**

### **3.2.1 Target population of the study**

The target population for this study was all taxpayers in South Africa who cared for a child with a disability during the 2010 year of assessment (1 March 2009 to 28 February 2010). Exactly how many taxpayers in South Africa (or even in Gauteng) cared for children with

disabilities during that period is difficult to determine. Data collected as part of Census 2001 estimates that of the 2 255 982 people in South Africa living with a disability, 331 611 reside in Gauteng of which 59 590 are under the age of 20 years (Statistics South Africa, 2005:44). Although this gives us an idea of the size of the population, the age of the disabled child is not really relevant. A disabled child for purposes of this study is defined as a child with a disability who is unable to maintain himself or herself and who is partially or wholly dependent for his or her maintenance on the taxpayer, regardless of the child's age.

The exact number out of the 59 590 children in Gauteng under the age of 20 years, who are unable to maintain themselves and who are partially or wholly dependent for their maintenance on a parent, is not known. It is also not known whether or not the parent is a taxpayer as defined for purposes of this study. Seeing that this was an exploratory study, the focus was not on obtaining a large and sufficiently diverse sample in order to obtain a meaningful spread of the population. The sample was therefore not intended to be statistically representative of the South African population.

### **3.2.2 Sample size and sampling method employed**

The sampling units of this study were taxpayer-parents who necessarily incurred and paid costs during their 2010 year of assessment in consequence of a disabled child. Due to the exploratory nature of the study and due to the fact that statistical conclusions were not required, **non-probability sampling** was used. In non-probability sampling there is no guarantee that each element of the population will be represented in the sample (Leedy & Ormrod, 2005:206) as opposed to probability sampling where each segment of the population are represented in the sample (Leedy & Ormrod, 2005:199).

The non-probability method used was **convenience or accidental sampling**, where readily available units are included in the sample (Leedy & Ormrod, 2005:206). Parents of children who attended the Maranatha Bana Centre located in Centurion, Gauteng any time during the 2010 year of assessment were included in the sample. This is a special school catering for children with one or more disability. During the 2010 year of assessment 36 children attended the centre. However, some parents were not taxpayers as defined for this study and were therefore not included in this study. In some cases both parents of a specific child qualified to be included in the sample as both were taxpayers.

Where any statistical analysis is to be performed, Stutely (cited in Saunders *et al.*, 2007:211) advises a minimum sample size of 30. Therefore due to the exploratory nature of the study and due to the fact that statistical analysis was not done, a sample of 20 was considered adequate. Furthermore, the data collection method that was used, namely telephonic semi-structured interviews, is very time consuming but usually yields a higher return rate than questionnaires mailed to respondents (Leedy & Ormrod, 2005:185). The researcher first approached parents of children who attended the Maranatha Bana Centre any time during the 2010 year of assessment. Due to the fact that 20 respondents could not be obtained, other parents of disabled children known to the researcher were approached. This is known as **purposive sampling**, namely when units of sampling are chosen who are typical of the population (Leedy & Ormrod, 2005:206). This was done to increase the return rate to 20 completed interviews.

### 3.3 DATA COLLECTION

This chapter covers the method of data collection, the design of the questionnaire including reasons for including specific questions, the pre-testing of the questionnaire and the period during which the survey was conducted.

#### 3.3.1 Method of data collection

Qualitative data is textual data that is collected and analysed non-numerical, while quantitative data is data that is collected and analysed numerically (Saunders *et al.*, 2007:145). This study followed a **mixed-method design**, as it contains elements of both a qualitative and quantitative approach (Leedy & Ormrod, 2005:97). However, the study was deemed to be a qualitative study as the focus was on the nature of expenses necessarily incurred and paid in consequence of a disability, which do not appear on the prescribed list.

On 8 June 2010 the researcher, as a community engagement project, presented a talk to the parents of children attending the Maranatha Bana Centre at that stage. The aim was to educate the parents regarding the claiming of disability expenses (in respect of their disabled children) as a tax deduction. During this talk the requirements, which need to be met before disability expenses can be claimed, were explained and the parents were also made aware of the introduction of the prescribed list as from the 2010 year of assessment.

The information session was attended by 21 parents, representing 22 of the 36 children who attended the centre during the 2010 year of assessment, being 61% (note that two siblings attended the centre).

During data collection access to data, both physical and cognitive, is of utmost importance. Physical access includes obtaining consent from a gatekeeper at the Maranatha Bana Centre, as well as the consent of the parents forming part of the sample. Cognitive access refers to access to valid and reliable data (Saunders *et al.*, 2002:423). The manager of the Maranatha Bana Centre (Mrs Filicia Barrett) was approached. The researcher obtained consent to approach the parents, who attended the information session on 8 June 2010, to volunteer to take part in this study. The letter of introduction dated 4 August 2010 and signed by Mrs Barrett is included as Appendix C.

During February, March and April 2011, the researcher contacted all the Maranatha Bana Centre-parents, who attended the presentation, by e-mail. The purpose of the study and the research problem were explained to them and they were asked whether or not they will be willing to participate in the survey. A convenient time to conduct the interview was agreed upon. They were also informed about what information and documents they would have to have at hand during the interview. This way the respondents could be prepared when the researcher conducted the telephonic interview. The researcher could only obtain 17 respondents out of the Maranatha Bana Centre-parents, as not all of these parents are taxpayers.

Other parents of disabled children known to the researcher were approached, until three more taxpayer-parents were found who were included as respondents. These parents did not attend the information session at the Maranatha Bana Centre and therefore the researcher had to explain the purpose of the study and the research problem individually to each of them. A convenient time to conduct the interview was agreed upon and they were given sufficient time to collect the necessary information and documents needed during the interview. The content of the consent form (Appendix B) was explained to all the respondents.

Telephonic interviews were conducted by the researcher personally at a date and time convenient to the respondents. In this way the researcher had control over the accuracy and completeness of the data and could ensure that the respondent understood the research problem. Any ambiguous answers could be clarified straight away and the researcher could ensure that enough detail was obtained regarding any expense not appearing on the list.

The interviews were semi-structured as a questionnaire was used as the data collection instrument (Appendix E). Although the questionnaire was set in English, interviews were conducted in the respondent's language of choice (being either Afrikaans or English). The researcher asked the questions set out in the questionnaire (Leedy & Ormrod, 2005:184) in the same order as in the questionnaire. The researcher did, where necessary, ask additional questions to some of the respondents to get clarification on some of the answers. The researcher also probed the respondents' reasoning regarding answers to question 9 (Leedy & Ormrod, 2005:184) to ensure that they understand the meaning of *necessarily incurred and paid in consequence of* correctly. During the interviews, the researcher had the prescribed list (Appendix A) available so that the respondent and the researcher could confirm the inclusion or non-inclusion of a certain type of expense in the list.

The researcher obtained 20 completed questionnaires, the results of which are summarised in Appendix F.

### **3.3.2 Design of the questionnaire**

The questionnaire is included as Appendix E.

A questionnaire may contain open ended or closed questions or a combination of both. Open ended questions, which respondents answer in their own words, allow for more in-depth answers (Hofstee, 2006:133). Closed questions are a form of a structured interview where all respondents are asked the same questions and are offered the same options in answering them (Hofstee, 2006:132).

Closed questions can be either dichotomous or multiple-choice questions. Dichotomous questions provide only two mutually exclusive options, for example gender (Cooper & Emory, 1995:312). Questions 1 and 8 are dichotomous questions. Multiple-choice single response questions are useful where more than one possible answer exists which are mutually exclusive (Saunders *et al.*, 2207:370). Questions 2, 3 and 7 are multiple-choice single response questions. Question 6 is a multiple-choice multiple-response question (also called a checklist) that provides multiple options where the respondent can select one or more of the available options.

Questions 4, 5 and 9 are open ended questions. Questions 4 and 5, however, provided quantitative information (for example age of the child with the disability). Question 9 is the only question in the questionnaire that provided qualitative information regarding the phenomenon under investigation.

The data obtained was measured. Measurement is a tool to inspect, analyse and interpret the data. Measurement scales are the methods used to measure data. During coding, questions 1 to 9 were coded using nominal scales of measurement, which divided the data into discrete categories. The frequency per category could then be counted (Leedy & Ormrod, 2005:25).

When designing a questionnaire the order in which the questions are asked are important. They should start from general to specific and from easy to more complex questions (Saunders *et al.*, 2007:381). It is also important to include countercheck questions to verify that the reply given in another question in the questionnaire was accurate and/or honest (Leedy & Ormrod, 2005:192).

Following the above principles, each question and the rationale for its inclusion are discussed below:

**Question 1 to 3** provided biographical information about the respondents, which were not relevant for purposes of this study. The purpose of these questions was simply to set the respondents at ease before starting to ask questions relevant for this study.



**Question 4:** Respondents were asked to indicate the number of disabled children they have cared for during their 2010 year of assessment. The question was included to determine how many disabled children the specific parent's costs relate to in order for the researcher to determine whether or not the expenses listed under question 9 are indeed in consequence of the relevant child's type of disability (as provided in answering question 6).

**Question 5:** Respondents were asked to indicate the age of each disabled child. The question was included so that the reader could form an opinion about the composition of the sample.

**Question 6:** Respondents were asked to indicate the nature of their child's disability (being visual, hearing, communication, physical, intellectual or mental) or any combination thereof as explained in SARS's form ITR-DD (Appendix B). This question was included to enable the researcher to determine whether or not the expenses listed in answering question 9 were indeed in consequence of the specific child's type of disability.

**Question 7:** Respondents were asked to indicate their relationship to the disabled child.

**Question 8:** Respondents were asked to indicate whether the disabled child was registered as a dependent on a medical scheme during the 2010 year of assessment of which either the respondent or someone else was the main member. This question was included so that the reader could form a view about the composition of the sample.

**Question 9:** Respondents were asked what type of disability expenses they have claimed in their 2010 income tax return. The researcher then, together with the respondent, determined whether or not the specific expense appears on the prescribed list. This question directly addressed the research problem investigated in this study, namely, to identify disability expenses that do NOT fall into any of the categories on the prescribed list.

Respondents were asked to explain the nature of the expense and the reason why they consider it to have been necessarily incurred and paid in consequence of their child's

disability, if not apparent from the child's type of disability (as indicated in the answer to question 6).

While conducting the interview the researcher ensured that the nature of the expense was understood correctly and also determined why the respondent viewed the specific expense to have been necessarily incurred in consequence of the child's type of disability or disabilities. This final question was therefore less structured than the rest of the interview. By doing this, the researcher ensured the reliability and validity of answers to question 9.

The researcher followed the same external review process (as described in Chapter 2.3.2) whereby a panel of six people were asked to express an opinion on whether or not the costs identified by the respondent and the researcher as not listed, appear on the list.

### **3.3.3 Pre-testing the questionnaire and when the survey was conducted**

The questionnaire was pre-tested by one of the parents of the Centre, who understood the research problem. After minor adjustments and after the questionnaire was approved by the supervisor of this study, the survey was conducted. The survey was conducted during February, March and April 2011. By this time almost all the respondents had already completed and submitted their 2010 tax returns.

## **3.4 DATA ANALYSIS**

This chapter describes the process of editing and coding the data obtained from the interviews and the method of analysing the data.

### **3.4.1 Editing and coding of data collected**

Editing is the process of reviewing and preparing the primary data collected for analysis. The purpose of editing is to ensure the completeness and accuracy of the data. It also includes arranging the data in such a way that coding and analysing the data becomes easier (Cooper & Emory, 1995:379).

Editing can be done either in the field while the data is being collected or after the collection of the data (Cooper & Emory, 1995:380). In this study, due to the data being

collected by the researcher by way of telephonic interviews, field editing was done by the researcher whilst conducting the interviews and also immediately thereafter. The researcher read the answers upon completion of the interview, ensuring that all questions were answered and that the answers were legible and comprehensive (Cooper & Emory, 1995:380). Question 9 was the most important question of the whole interview and during the interview the researcher had to determine why the respondent viewed the specific expense to have been necessarily incurred in consequence of his child's disability. Furthermore, the researcher had to ensure that the expense did indeed not fit into any one of the categories making up the prescribed list.

Coding is the process of allocating numbers, letters or symbols to responses in order to group the responses together into response categories for use during data analysis (Cooper & Emory, 1995:381). During the design of the questionnaire an effort was made to group similar questions together, namely questions 1 to 5 relate to the respondent, questions 6 to 8 to the disabled child or children of the respondent and question 9 provides detail about the expense that does not appear on the prescribed list.

As far as possible, exhaustive and mutually exclusive response categories were used to facilitate coding. The numbers allocated to the responses to Questions 1 to 3 and 6 to 8 are indicated in the questionnaire (Appendix E). Questions 4, 5 and 9 are open ended questions and due to the low sample size selected for this study, it was decided not to use response categories for these questions. The results of these open ended questions therefore provided qualitative data that were not coded. The responses to the open ended question 9 were reviewed and grouped into categories that were coded.

### **3.4.2 Method of analysis**

The main purpose of this study was to explore the possible existence of an expense, which was necessarily incurred and paid by a taxpayer in consequence of a disability of the taxpayer's child, but which does not fall into any one of the categories making up the prescribed list. It was aimed at establishing the nature and characteristics of such expenses and to possibly create classifications for these expenses. Responses to question 9 (qualitative data before coding) of the questionnaire provided examples of such expenses.

### **3.5 ASSESSING AND DEMONSTRATING THE QUALITY AND RIGOUR OF THE PROPOSED RESEARCH DESIGN**

#### **3.5.1 The problem of bias**

Bias is any influence distorting the data that questionnaires may yield (Leedy & Ormrod, 2005:208). The type of sample selection used for this study (namely convenience and purposive sampling) was biased, as not every taxpayer in the population had an equal chance of being selected. This is called sampling bias (Leedy & Ormrod, 2005:209). As this was an exploratory study, the aim was not to generalise the findings to the entire population. No effort was therefore made by the researcher to reduce this form of bias.

In addition some of the respondents included in the sample might have been less interested in the topic being studied (Leedy & Ormrod, 2005:209). On the other hand, respondents might have been of the opinion that the prescribed list is indeed incomplete. The researcher tried to address these issues by briefly explaining the requirements before disability expenses may be claimed, as well as the research problem before the interview commenced. Furthermore, there may be language barriers that may affect respondents' responses (Leedy & Ormrod, 2005:210). This problem was addressed by giving the respondents the choice of the language in which the interview was to be conducted (being either Afrikaans or English).

Participant bias refers to situations where participants respond in a way that they consider morally acceptable or alter their answers where they think they might be prejudiced by their responses (Saunders *et al.*, 2007:149). This will then also impact on the reliability of the data. This was addressed by the researcher by guaranteeing the anonymity of the respondents. Furthermore, the type of questions asked in the questionnaire did not identify the respondent. For example, neither the name of the respondent nor the name of the disabled child was recorded. The respondent's income tax number was also not asked for.

#### **3.5.2 Quality and rigour (validity and reliability) of the research design**

Research findings will only be credible if based on valid and reliable data. Validity is "whether the findings are really about what they appear to be about" (Saunders *et al.*, 2007:150). The researcher ensured that each question in the questionnaire served a purpose in addressing the research objectives. One of the threats to external validity is the

lack of being able to generalise the findings to the larger population (Saunders *et al.*, 2007:151). Due to this being an exploratory study, the aim was not to generalise the findings to the population.

Reliability is concerned with the extent to which the questionnaire will lead to consistent results (Saunders *et al.*, 2007:149, 367). Internal consistency is one way to ensure reliability of data, namely, where responses are correlated to answers to other questions (Saunders *et al.*, 2007:367-368). Reliability was also ensured by pre-testing the questionnaire and by the fact that the researcher scrutinised the prescribed list to ensure that the relevant expense does indeed not appear on the prescribed list. The researcher also read back the answers to the respondent to ensure that the response to question 9 was accurately recorded.

There are a number of threats to reliability (Saunders *et al.*, 2007:149-150), namely:

- Participant error which refers to respondents' answers varying depending on their attitude towards the research problem. This problem was discussed in Chapter 3.5.1. Furthermore, participants may misunderstand the meaning of "necessarily incurred and paid in consequence of". The researcher addressed this problem by giving a presentation on the research problem at the Centre. The researcher explained the research problem to each of the parents who did not attend the information session over the telephone before conducting the interview.
- In addition, the researcher explained the requirements before disability expenses may be claimed for normal tax to the respondents at the start of the interview. The researcher also reviewed the answers to question 9 after the interview to ensure that the necessarily and in consequence requirements were indeed met.
- Participant bias, which has already been discussed in Chapter 3.5.1.
- Observer error. This risk exists as the researcher might have incorrectly concluded that a specific expense does not fall into any one of the categories on the prescribed list. This risk was addressed by following an external review process<sup>5</sup> whereby six people were asked to independently review a list of various disability expenses. All

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<sup>5</sup> As explained in Chapter 2.3.2.

the expenses, which according to the researcher do not appear on the prescribed list, were included. Any difference in opinion between that of the researcher and the reviewers are expressly mentioned in the study.

The risk also exists that the researcher might have incorrectly concluded that a specific expense does appear on the list. This risk was not considered a threat as the purpose of this study was not to obtain a comprehensive list of expenses not appearing on the prescribed list, but to simply prove that the research problem may exist. However, expenses which in the researcher's opinion appear on the list (all obtained from answers to question 9 of the questionnaire) were also included in the external review process to make the review process more reliable.

- Observer bias, which relates to the researcher's interpretation of answers during the interviews. The questionnaire consisted mainly of closed questions; the only open ended question which produced qualitative data was question 9. This risk therefore only existed with respect to question 9 and was reduced by the researcher by reading back the answer to question 9 to the respondent.

### **3.6 RESEARCH ETHICS**

Whenever human beings are the focus of an investigation, the ethical implications must be considered (Leedy & Ormrod, 2005:101). Research ethics "refers to the appropriateness of your behaviour in relation to the rights of those who become the subject of your work, or are affected by it" (Saunders *et al.*, 2007:178). A researcher should ensure that his entire study is conducted in a morally responsible way (Saunders *et al.*, 2007:178). Leedy and Ormrod (2005:101) divides ethical considerations into the following four categories, namely, protection from harm, informed consent, right to privacy and honesty with professional colleagues (Mouton, 2001:240-245). Each of these categories is discussed below.

Protection from harm: Participants should not be exposed to physical or psychological harm (by being subjected to stress, embarrassment or loss of self-esteem) (Leedy & Ormrod, 2005:101; Mouton, 2001:245). This consideration was specifically considered in designing the questionnaire and questions were worded in such a way as to avoid sensitive situations such as the actual functioning level of a disabled child. The researcher appreciated that parents could be sensitive about this.

Informed consent: The nature and aim of the study should be explained to participants and they should be given the option to either voluntarily participate in the study or not. Furthermore, they must be given the option to withdraw from the study at any time (Leedy & Ormrod, 2005:101). The informed consent form should include the following (Leedy & Ormrod, 2005:101-102; Mouton, 2001:244):

- A brief description of the study.
- What would be required of a parent who agrees to participate in the study (activities and time involved).
- Making it clear that participation is voluntary and that they can withdraw at any time.
- An undertaking that all responses will remain confidential and anonymous.
- Contact details of the researcher.
- Contact details of someone else with whom the participant can discuss concerns or raise questions.
- An offer to provide a summary of the research findings of the study after completion thereof.

Due to telephonic interviews being conducted, participants were not asked to sign informed consent forms. The researcher explained the content of the consent form (Appendix D) to all respondents at the start of the interviews. Written consent was obtained from the manager of the Maranatha Bana Centre, authorising the researcher to contact parents of children who attended the centre at any time during the 2010 tax year (Appendix C).

Right to privacy: The participant has the right to refuse to respond to a questionnaire or to be interviewed or to answer any particular question or questions during the interview (Mouton, 2001:243). Furthermore, the confidentiality of data and anonymity of respondents should be protected at all times (Leedy & Ormrod, 2005:102). During the analysis of the data and report of the research findings, responses should not be linked to a particular respondent; code numbers or pseudonyms should be used instead (Leedy & Ormrod, 2005:102). In this study, each participant's anonymity was guaranteed beforehand (as

stated in the consent form). Neither the respondent's nor the child's name were requested in the questionnaire. Furthermore, the child's condition or diagnosis was also not requested.

Honesty with professional colleagues: A researcher should report his findings in a complete and honest way, without any misrepresentation about the research that was performed (Leedy & Ormrod, 2005:102). A summary of the results of the interviews will be made available on request.

Furthermore, the research report must be based on data obtained during the interviews. The data may not be changed in any way, except for minor changes required during editing and coding, as described in Chapter 3.4.1 (Hofstee, 2006:211; Leedy & Ormrod, 2005:102; Mouton, 2001:204). Plagiarism must also be avoided by acknowledging all sources used during the study (Hofstee, 2006:211-212; Mouton, 2001:241).

### **3.7 CONCLUSION**

This chapter considered the research design and methodology employed in this study, as well as the selection and design of the research instrument utilised, the sample selected, the process of data collection and analysis, the validity and limitations of data and some ethical considerations.

The next chapter discusses the results of the analysis of the data and the subsequent findings.



## CHAPTER 4

### ANALYSIS OF RESULTS

#### 4.1 INTRODUCTION

The aim of this study was to obtain, by way of semi-structured interviews with parents of disabled children, a list of disability expenses which do not appear on the prescribed list but which they have claimed in their 2010 income tax return. These expenses must have been necessarily incurred and paid by the parent in consequence of the child's disability.

This chapter focuses on the analysis of the responses obtained during the interviews.

#### 4.2 ANALYSIS OF THE COMPOSITION OF THE SAMPLE

A total of 20 completed questionnaires were obtained by the researcher. In three instances both parents of a specific child were interviewed (as both of them were taxpayers) and one of the respondents was caring for two disabled children during the 2010 year of assessment. The data therefore related to costs incurred by 20 parents (out of 17 different households<sup>6</sup>) in respect of 18 disabled children<sup>7</sup>.

Fifteen of the 18 children attended the Maranatha Bana Centre at any time during the 2010 year of assessment, but one moved to a normal school during the 2010 year of assessment. He therefore attended Maranatha Bana Centre for part of the 2010 year of assessment only. Three of the children did not attend the Maranatha Bana Centre at any time during the 2010 year of assessment. Only one of them attended another special school; the other two were cared for at home and did not attend any school due to the severity of their disabilities.

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<sup>6</sup> Twenty parents, but in three instances both parents were interviewed, therefore only 17 households represented.

<sup>7</sup> Calculated as follows: 20 parents of 20 children less three children double counted as both parents were interviewed, plus a sibling not yet counted.

### 4.3 ANALYSIS OF INFORMATION REGARDING THE DISABLED CHILDREN

The different ages of the 18 children are set out in Table 2 below:

**Table 2: Age analysis of the 18 children**

Age	4	8	9	10	11	13	14	16	18
Count	2	2	3	4	2	1	1	2	1

In order to determine whether an expense was indeed necessarily incurred and paid in consequence of a child's disability, the type of expense had to be evaluated against the nature of the child's disability. Disabilities as defined in the Act and as diagnosed according to criteria prescribed by the Commissioner of Inland Revenue (as set out in form ITR-DD included as Appendix B) was used for this purposes. The analysis of the nature of the disability or disabilities, as well as the total number of disabilities per child for each of the 18 children, is set out in Table 3 below:

**Table 3: Disability analysis of the 18 children**

Child	Visual	Hearing	Communi- cation	Physical	Intellec- tual	Mental	Disabi- lities
1			✓	✓	✓		3
2			✓		✓	✓	3
3	✓		✓	✓	✓	✓	5
4	✓		✓	✓	✓		4
5	✓		✓	✓	✓	✓	5
6		✓			✓		2
7	✓		✓	✓	✓	✓	5
8	✓		✓	✓	✓	✓	5
9						✓	1
10				✓	✓	✓	3
11	✓		✓	✓	✓	✓	5
12			✓	✓	✓		3
13			✓		✓		2
14			✓		✓	✓	3
15	✓		✓	✓	✓	✓	5
16			✓	✓	✓	✓	4
17			✓		✓		2
18			✓	✓	✓	✓	4

It is therefore clear that 17 of the 18 children have various disabilities and only one child has a single disability. None of the children has all six types of disabilities as can be seen from Table 4 below:

**Table 4: Analysis of children having a specific number of disabilities**

No. of disabilities	1	2	3	4	5	6
No. of children	1	3	5	3	6	0

The average number of disabilities per child is 3.6. The disability occurring the most amongst these children, is intellectual disability (namely 17 out of the 18 children), while 15 have a communication disability. Twelve children have a physical disability and 12 a mental disability. Seven children have a visual disability and only one a hearing disability. The analysis of the number of children having a specific type of disability is set out in Table 5 below:

**Table 5: Analysis of the specific type of disability**

Disability	Visual	Hearing	Communi- cation	Physical	Intellec- tual	Mental
No. of children	7	1	15	12	17	12

All 18 children were registered as a dependant of a parent on a medical scheme during the 2010 year of assessment. However, one child's condition was not covered by the parent's medical scheme. This child was involved in a very serious car accident at the age of four which caused his disabilities and the parent's medical scheme covers no expenses directly related to disabilities caused by the car accident. This parent received a payment from the RAF (Road Accident Fund) that is kept in trust with the parent's attorneys. Some of the child's expenses directly related to the car accident is financed out of these funds and could therefore not be included in the parent's tax claim.

#### **4.4 ANALYSIS OF EXPENSES NOT ON THE 2010 PRESCRIBED LIST**

During the interviews it became clear that the majority of the expenses claimed by the respondents did appear on the list. However, 26 different expenses were identified where it was uncertain whether the expense is listed. After analysing these, the researcher identified seven broad classes of expenses. These seven classes of expenses, as well as the frequency of expenses falling into each of them, are set out in Table 6 below:

**Table 6: Classes of expense which do not appear on the prescribed list**

Type	Frequency
Expenses relating to feeding and supplements	10
Expenses relating to school fees	9
Expenses relating to electronic equipment	2
Expenses relating to service animals	2
Expenses relating to obsessive behaviour	1
Expenses relating to medical supplies	1
Expenses relating to transport	1

As the intention was not to generalise the findings to the larger population, the frequency of expenses falling into each class is not that meaningful. It is, however, important that the study identifies legitimate expenses not appearing on the prescribed list. The expenses so identified are also not necessarily exhaustive. Each of these classes is discussed in detail below.

#### **4.4.1 Expenses relating to feeding and supplements**

From the answers to question 6, it was clear that 15 of the children had communication difficulties and 12 of them physical disabilities, as set out in Table 5. Both these types of disabilities may lead to feeding problems. For example, a child with a physical disability (such as cerebral palsy) does not have proper control over oral muscles in order to control movements of the jaws, lips, tongue and facial muscles used in speaking, chewing and swallowing (Gersh, 1998:19). A child who swallows with difficulty also has feeding problems. Some of the parents told the researcher that feeding their child take hours at a time and a lot of patience. Feeding problems may lead to a child not getting all the necessary nutrients and being underweight.

This class included the cost of feeding devices (such as bottles and teats) for one of the children who cannot drink from a cup. Two of the 18 children are tube fed (where a tube is inserted through a small incision in the abdomen into the stomach which is then used to provide nutrition to patients who cannot obtain nutrition by swallowing). Products used for tube feeding these two children are also included under this class.

Five of the children were given daily vitamins to build up their immune system. The parents explained to the researcher that these children have a very low immune system and that when they catch a cold for example, they very easily get a secondary infection. They often end up in hospital and some of the parents even keep their children at home over winter and do not send them to school. This class also included feeding supplements (not vitamins) for one child to build his immune system and to gain weight.

One of the children cannot drink cow's milk and is given soya milk. The reason being, that the cow's milk produce too much mucus and cause lung infections. The parent is of the opinion that this problem is directly related to the child being physical disabled; the child does not have the strength and muscle control to cough up and swallow the mucus like a normal child could.

Category 5 of the prescribed list allows for the deduction of costs of *aids and other devices* required by the disabled person to function or perform daily activities (SARS, 2010a:4). The researcher and the respondent were not certain whether *aids and other devices* would include bottles and teats. However, as feeding is a daily activity, the external review concluded that the cost of the bottles and teats could be included in the list (Bronkhorst *et al.*, 2011:2).

The cost of the products used for tube feeding, cost of the vitamins, supplements and soya milk do not fall into category 5 as they do not relate to the cost of aids or devices, but rather to consumables. They also do not fall under any of the other categories of the prescribed list, which was confirmed by way of an external review process (Bronkhorst *et al.*, 2011:2).

#### **4.4.2 Expenses relating to school fees**

As already mentioned, the data related to costs incurred by 20 parents in respect of 18 disabled children. Three of the children did not attend the Maranatha Bana Centre at any time during the 2010 year of assessment. Of these three, only one attended another special school; the other two were kept home during the 2010 year of assessment due to the severity of their disabilities. Out of the 15 children who attended Maranatha Bana Centre during the 2010 year of assessment, one moved to a normal school during the

2010 year of assessment. He therefore attended the Maranatha Bana Centre for ten months out of the 2010 year of assessment and a normal school for the other two months.

The parents of eight of the children, who attended either the Maranatha Bana Centre or a special school, claimed the FULL monthly fees and not only the excess over and above the fees of the closest fee paying public school as allowed in terms of category 6 number 7 of the prescribed list (SARS, 2010a:6). It is uncertain why the list allows only the excess, as it is submitted that the full amount of school fees was indeed necessarily incurred in consequence of the child's disability. The external review (Bronkhorst *et al.*, 2011:2) indicated that the full fees might qualify under number 3 of category 1, which refers to the cost of special education by "educational institutions that cater to specific disabilities" (SARS, 2010a:2).

The parent of the child, who was moved from a special school to a normal school as from the beginning of the 2010 calendar year, also claimed the FULL school fees of the normal school for the relevant number of months. In terms of category 6, number 8 of the prescribed list for the 2010 year of assessment (SARS, 2010a:6), in the case of a normal school only additional expenses over and above normal school fees, incurred and paid to the school as a result of a disability can be claimed. In other words, the full normal school fees are not allowed in terms of the prescribed list. The external review confirmed this view (Bronkhorst *et al.*, 2011:3).

This specific child was born with Down Syndrome and the parent explained to the researcher that the whole idea behind moving him to a normal school, is so that he can learn by way of imitating normal children and not disabled children (as is the case in a special school). The reason was not because he is functioning on the level of a normal child having no disabilities. The parent therefore argues that the full school fees were indeed necessarily incurred and paid during the 2010 year of assessment in consequence of the child's disabilities. Furthermore, there is no guarantee at the moment that her disabled child will cope in the normal school and might have to be moved back to a special school in future.

This scenario is very similar to that of Special Board Decision No. 167 dated 29 April 2002 as explained in Chapters 2.3.3 and 2.3.4. The question is whether or not this parent will be able to discharge the onus of proof in a court of law that the full normal school fees were indeed necessarily incurred and paid in consequence of her child's disability.

#### **4.4.3 Expenses relating to electronic equipment**

In two cases, parents claimed the cost of electronic equipment used to stimulate their children at home. Both of these children have three disabilities, namely communication, physical and intellectual. The electronic equipment included the cost of a computer and printer, as well as the paper used for the printer. It also included a laminating machine and the plastic pockets used for the machine for the making of, for example, sight reading cards and cards for the child's communication file (where the child communicates by way of showing to pictures in a file).

Category 5 of the prescribed list allows for the deduction of costs of aids and other devices required by the disabled child to function or perform daily activities (SARS, 2010a:4). Again it appears as if these costs could qualify under the general description of category 5 expenses. However, they are not specifically mentioned as one of the 28 examples provided in this category. Examples 2 and 3 include the cost of computer devices and related equipment *used by the disabled person*, which is clearly not the case here. It is therefore uncertain whether or not these expenses appear on the prescribed list. This view was confirmed by the external review (Bronkhorst *et al.*, 2011:3). It is, however, clear that these types of costs were necessarily incurred and paid during the 2010 year of assessment in consequence of these children's disabilities and should therefore appear on the list.

#### **4.4.4 Expenses relating to service animals**

In two cases, parents claimed the cost of acquiring service animals (dogs), as well as the training and cost of caring for and maintaining the dogs. The one child (who has two disabilities, namely, communication and intellectual) has a dog to help him to connect with people around him. According to the parent, the dog has had a tremendous impact on the child's social skills and ability to interact with people as he does not sit in the corner the whole day anymore. The other child (who has three disabilities, namely, communication, physical and intellectual) also has a dog as a companion. According to the parent, the dog

warns them about a day before the child gets a seizure or epileptic fit by becoming very excitable towards the child. Neither of these children has a visual disability.

Category 8 of the prescribed list includes expenses that aid a disabled person to perform daily activities, such as a guide dog helping a blind person to cross a street (SARS, 2010a:7). It is uncertain whether or not these dogs aid these children *to perform daily functions* and therefore it is not clear whether or not these expenses appear on the prescribed list, as confirmed by external review (Bronkhorst *et al.*, 2011:3-4). It can, however, be argued that these expenses have been necessarily incurred and paid during the 2010 year of assessment in consequence of these children's disabilities and should therefore be included on the prescribed list.

#### **4.4.5 Expenses relating to obsessive behaviour**

One of the parents claimed the cost to repair a broken dimmer light switch and transformer in his dining room which had been broken by his child's obsessive behaviour with switches. The child has five disabilities (visual, communication, physical, intellectual and mental).

As mentioned earlier, category 5 of the prescribed list allows for the deduction of costs of aids and other devices required by the disabled child to function or perform daily activities (SARS, 2010a:4). The question is whether it can be reasoned that the child needs the light switch to *function*. A further question is whether this category includes the cost to repair such a device, or only the acquisition of such a device. The parent was of the opinion that the child does indeed need a light switch to function. By switching on and off a light all the time, the disabled child who shows obsessive behaviour gets through his day easier.

The cost of repairing the switch may therefore fall into the general description under category 5 even though it is not listed as one of the 28 examples provided in this category. The external review pointed out that category 3 may also apply (Bronkhorst *et al.*, 2011:4), namely, repairs to devices required by a disabled person to function (SARS, 2010a:3). If it can be proved by the parent that the cost of repairing the switch will be expenses necessarily incurred and paid in consequence of the child's disabilities, the cost of repairing the switch should be included on the list.



#### **4.4.6 Expenses relating to medical supplies**

One of the parents claimed the costs of deworming his child regularly. This child is nine years old and is, amongst other disabilities, physically disabled and bum shuffles as opposed to walking. This brings the child in contact with unhygienic surfaces, after which the child puts his hands in his mouth.

This expense is not catered for on the prescribed list. This view was confirmed by the external review (Bronkhorst *et al.*, 2011:4). It can, however, be argued that these expenses have been necessarily incurred and paid in consequence of the child's disabilities and should therefore appear on the list.

#### **4.4.7 Expenses relating to transport**

One parent claimed the additional cost of purchasing a bigger vehicle in order to transport her disabled child, his facilitator and all his special equipment (such as a stroller, standing and walking frames). The child is nine years old and has five disabilities (visual, communication, physical, intellectual and mental).

Category 9 of the prescribed list allows the cost of alterations or modifications to assets acquired, for example, in point 4 alterations to vehicles to permit a disabled person to gain access in and out of the vehicle (SARS, 2010a:8). It is expressly mentioned that the acquisition costs of the vehicle will not qualify. The additional cost of acquiring a bigger vehicle will therefore clearly not fall into this category. This was confirmed by the external review (Bronkhorst *et al.*, 2011:4).

It can, however, be argued that this expense has been necessarily incurred and paid in consequence of the child's disabilities. The child needs the facilitator and special equipment to function on a daily basis. The child walks with a walking frame, but tires very quickly and is then pushed in his stroller. He needs to stand every day in his standing frame so that his hips do not dislocate and the standing frame is taken with on holidays.

### **4.5 CONCLUSION**

This chapter focused on the analysis of the responses obtained by way of semi-structured interviews. The composition of the sample was analysed, as well as information about the

disabled children. During the interviews, the researcher and the respondents identified 26 real-life expenses where it was uncertain whether they are listed. After the external review, it was concluded that of these expenses:

- one appears on the list;
- 12 do not appear on the prescribed list; and
- that it is uncertain whether the other 13 appear on the prescribed list.

It was then considered whether these expenses were *necessarily incurred and paid in consequence of* the children's disabilities. The parents deemed this to be the case. Due to 12 legitimate expenses not appearing on the list and due to it being uncertain whether 13 of them do, it can be concluded that SARS should reconsider the **completeness and clarity** of the prescribed list with regard to expenses incurred by parents caring for severely disabled children.

The final chapter highlights significant findings resulting from this study and suggests areas for future research.

## CHAPTER 5

### CONCLUSION FOR THE STUDY

#### 5.1 INTRODUCTION

The aim of this study was to obtain, by way of semi-structured interviews with parents of disabled children, a list of disability expenses which do not appear on the prescribed list, but which they have claimed in their 2010 income tax return. These expenses must have been necessarily incurred and paid by the parent in consequence of the child's disability.

#### 5.2 METHODOLOGY

The research was exploratory in nature and was conducted by way of telephonic interviews. The target population was South African taxpayers who cared for a disabled child during the 2010 year of assessment. A convenient sample was drawn from parents whose children attended a private learning centre for disabled children located in Centurion at any time during the 2010 year of assessment. Since 20 respondents could not be obtained, three other parents of disabled children were drawn purposively.

A questionnaire was developed to be used as data-collection instrument. A mixed-method design was followed. Although quantitative data was obtained by way of structured questions (biographical information about the parent and disabled child), the aim of the interview was to obtain qualitative data (namely descriptions of the unlisted expenses) by way of an open-ended question.

The interviews were conducted (with the necessary consent) during February to April 2011. Before commencing with the interviews, the purpose of the study and the research problem were explained to the respondents and a convenient time to conduct the interview was agreed upon. They were also informed about what information and documents they would need to have at hand during the interview. During the interviews the respondents were asked to describe the expenses that they had necessarily incurred and paid in consequence of their children's disabilities during their 2010 year of assessment.

This risk of observer error existed (Saunders, Lewis & Thornhill, 2007:149-150) as the researcher might have incorrectly concluded that a specific expense does not fall into any one of the categories on the list. This risk was addressed by way of following the external review process.

On the other hand, the researcher might have incorrectly concluded that a specific expense does appear on the list. This risk was not considered to be a threat, as the purpose of this study was not to obtain a comprehensive list of allowable expenses. However, in order to make the external review process more reliable, some of the expenses considered to be listed were also submitted for external review. Data obtained during the interviews were analysed and interpreted.

### **5.3 SUMMARY OF FINDINGS**

The results of this study identified 12 expenses which do not appear on the list and 13 where it is uncertain whether or not they appear on the list. These expenses were divided into seven classes, namely:

- Expenses relating to feeding and supplements.
- Expenses relating to school fees.
- Expenses relating to electronic equipment.
- Expenses relating to service animals.
- Expenses relating to obsessive behaviour.
- Expenses relating to medical supplies.
- Expenses relating to transport.

The sample used was not representative of the population and the intention was never to generalise the findings to the larger population. The list of expenses identified is therefore not necessarily exhaustive.

Technically, the above expenses might not have been allowed as deduction in the 2010 year of assessment. However, the same type of expenses would have qualified for

deduction during the 2009 year of assessment before the introduction of the prescribed list.

#### **5.4 RECOMMENDATIONS**

Based on this study, the respondents felt that the prescribed list is not complete and it is recommended that SARS review and expand the list to cater for the expenses identified by this study. Even though it might not be possible to draw up a conclusive list of legitimate expenses, the list should be expanded in such a way so that it does not form another filter for purposes of section 18(1)(d) (SARS, 2009:2).

#### **5.5 CONTRIBUTION OF THE STUDY**

An extensive search of leading electronic databases (EbscoHost, Proquest and Sabinet) indicated that no academic research has been performed to address the research problem of this study. This study therefore appears to be the first of its kind in South Africa.

The prescribed list remained the same for the 2011 year of assessment. During August 2011, SARS issued a slightly expanded prescribed list (in draft) which is intended to apply from the 2013 year of assessment. This list is open for public comment until 30 September 2011. The findings of this study will be submitted to SARS in an attempt to ensure that the expenses identified by this study will be included in the prescribed list.

#### **5.6 SUGGESTIONS FOR FUTURE RESEARCH**

Based on the findings of the study and the delimitations discussed in Chapter 1.6, the following areas for future research are suggested:

- Research whether or not the proposed tax credit (as opposed to a deduction) will indeed provide relief to non taxpayer parents for disability expenses incurred in respect of their disabled children.
- Research what the impact of the proposed tax credit (as opposed to a deduction) will be on taxpayer-parents of disabled children.
- Perform the same study on a representative sample of the population.
- Research the deductibility of disability expenses necessarily incurred by a non parent-taxpayer, for example a sister in respect of her disabled brother.

- Research the deductibility of expenses directly related to a physical impairment as opposed to a disability.
- Research whether or not disability expenses appearing on the prescribed list should be apportioned in some instances.
- Research whether or not there should be a prescribed limit for disability expenses appearing on the prescribed list.
- Critically evaluate the definition of “disability” (section 18(3)), as well as the criteria set out in form ITR-DD.
- Follow up on this study by determining whether or not the expenses claimed by the parents in their 2010 income tax return were allowed by SARS on assessment, thus testing SARS’s enforcement of the list.
- Perform the same study on disabled taxpayers as opposed to parents caring for disabled children.
- The deductibility of disability expenses under the general deduction formula (section 11(a)).

## **5.7 PROPOSED CHANGES TO LEGISLATION**

Legislation applicable to a 2010 year of assessment was considered for purposes of this study. In the 2011 Budget Speech the Minister of Finance announced that the current medical deduction (section 18) will be converted into a medical credit. The first phase of this reform is contained in the 2011 Draft Taxation Laws Amendment Bill, published on 2 June 2011. On 17 June 2011, National Treasury also published for public comment a tax policy discussion document entitled “Conversion of medical deductions to medical credits”. The conversion is intended to apply as from the 2013 year of assessment and was therefore not considered for purposes of this study.

## **5.8 CONCLUSION**

This study indicated that there were indeed legitimate expenses incurred by the respondents during their 2010 year of assessment that did not appear on the prescribed list. The prescribed list therefore does not cater for all the possible legitimate expenses incurred by a parent of a severely disabled child. It was found that the South African

Revenue Service should reconsider the clarity and completeness of the list from the perspective of a parent caring for a disabled child.

It is envisaged that this research project will contribute to a greater understanding of the type of expenses incurred by parents caring for severely disabled children.

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**APPENDIX A**  
**- List of Qualifying Physical Impairment  
or Disability Expenditure -**

# **SOUTH AFRICAN REVENUE SERVICE LIST OF QUALIFYING PHYSICAL IMPAIRMENT OR DISABILITY EXPENDITURE**

**Section 18 of the Income Tax Act, 1962**

Effective date: 1 March 2009

# List of qualifying physical impairment or disability expenditure in terms of section 18(1)(d) of the Income Tax Act, No. 58 of 1962 (the Act)

## 1. Introduction

Expenditure prescribed by SARS and which is necessarily incurred and paid for by the taxpayer in consequence of a physical impairment or disability is deductible in terms of section 18 of the Act, subject to certain limitations. The terms “**necessarily incurred**” and “**in consequence of**” are not defined in the Act. Therefore, they retain their ordinary dictionary meaning. This means that a prescribed expense does not automatically qualify as a deduction by mere reason of its listing. The expense must also be necessary for the alleviation of the restrictions on a person’s ability to perform daily functions. For example, if a person in a wheelchair buys a hand-held GPS, the cost of the hand-held GPS will not qualify under section 18(1)(d) of the Act even though the expense is in the list. This is so because the hand-held GPS is not directly connected to this person’s disability and hence neither necessarily incurred nor incurred in consequence of the disability. In the case of a person who is, for example, visually impaired the cost of the hand-held GPS may qualify.

## 2. Definitions

### 2.1 Disability

The term “disability” is defined in section 18(3) of the Act as follows –

“**disability**” means a moderate to severe limitation of a person’s ability to function or perform daily activities as a result of a physical, sensory, communication, intellectual or mental impairment, if the limitation—

- (a) has lasted or has a prognosis of lasting more than a year; and
- (b) is diagnosed by a duly registered medical practitioner in accordance with criteria prescribed by the Commissioner.

### 2.2 Physical impairment

The term “physical impairment” is not defined in the Act. However, in the context of section 18(1)(d) of the Act it has been interpreted as a disability that is less restraining than a “disability” as defined. This means the restriction on the person’s ability to function or perform daily activities after maximum correction is less than a “moderate to severe limitation”. Maximum correction in this context means appropriate therapy, medication and use of devices.

## 3. Deductibility of qualifying expenses

### 3.1 Disability

A taxpayer who has or whose spouse or child has a disability in accordance with criteria prescribed by the Commissioner for SARS will be able to claim qualifying expenses under section 18 of the Act as a deduction from his or her income (inclusive of VAT) **in full**.

### 3.2 Physical impairment

A taxpayer who has or whose spouse or child or dependant has a physical impairment that is not a “disability” as defined will be able to claim qualifying expenses under section 18 of the Act as a deduction from his or her income (inclusive of VAT). The qualifying expenses will, however, only be deductible to the extent that the amount exceeds 7,5 per cent of the taxpayer’s taxable income. The term “dependant” in the context of section 18 of the Act means any dependant of the taxpayer admitted as a dependant under the taxpayer’s medical scheme.

**The prescribed list of expenditure for purposes of section 18(1)(d) of the Act is set out below:**

<b>NATURE OF EXPENSE</b>	
<b>ATTENDANT CARE EXPENSES</b>	
1	<p>Expenditure that is incurred and paid for purposes of special care, in respect of special services to assist, guide, care for a person with a physical impairment or disability, regardless of the place the services are rendered (e.g. home, nursing home, retirement home etc).</p> <p>Examples of expenditure in this category include nursing services, special care for the disabled individual, chauffer services etc.</p> <p>This will include salaries paid to employees as well as fees for professional services performed by, for example, nursing homes.</p> <p><b>Example:</b></p> <p>The parents of a child with a disability employ someone <b>primarily</b> to care for and look after the needs of the child who incidentally assists with general housekeeping activities. The salary paid to such person will qualify. However, if the parents employ the person <b>primarily</b> to perform housekeeping activities who incidentally assists with the child, the salary paid to such person will not qualify.</p>
2.	<p>Training for workers and or parents and related expenditure.</p> <p>Examples of expenditure in this category include special courses, training undergone by the parents or special care attendant who will care for a person with a disability.</p>
3.	<p>Special education and training of a person with a disability.</p> <p>This category includes expenditure incurred and paid for specialised education for a person with a disability. This will include training to cope with the disability, rehabilitation and educational institutions that cater to specific disabilities.</p>

## **TRAVEL & OTHER RELATED EXPENSES**

Expenditure in this category refers to reasonable travelling expenses (including accommodation, where applicable) incurred and paid by the taxpayer to acquire goods or services (including maintenance of such goods) required by a person with a physical impairment or disability.

### **Examples:**

1. Reasonable travelling expenses (including accommodation) incurred and paid for the person to attend a place that trains him or her in the handling of service animals (including hearing and guide dogs) and other aids or supporting devices.
2. Transportation costs specifically incurred in respect of a learner with a disability who attends a specialised school. This is limited to circumstances where the specialised school is not available in the area, suburb or town where the taxpayer lives.
3. Transportation costs incurred and paid for repairs and maintenance to aids and other supporting devices. This includes, for instance the cost of taking a wheelchair to the manufacturer for maintenance or repairs.
4. Transportation costs and other related expenses (e.g. boarding etc.) paid in respect of an assistant or care attendant away from the primary residence of a person with a disability.

### **Note:**

If a private motor vehicle is used and accurate records of qualifying kilometres are kept –

1. the taxpayer may estimate the expenses incurred by using the rates per kilometre prescribed by the Minister of Finance. These rates are to be found in the Regulation titled “Fixing of rate per kilometre in respect of motor vehicles for the purposes of section 8(1)(b)(ii) and (iii) of the Income Tax Act, 1962”; and
2. the modification costs for the vehicle must be excluded from the cost of the vehicle if they had already been claimed under section 18 of the Act.

### **Example:**

If the cost price of the vehicle was R250 000 (which include modification costs amounting to R50 000), the value to be used in determining the rate per kilometre will be R200 000 (i.e. R250 000 minus R50 000).

## **INSURANCE, MAINTENANCE, REPAIRS AND SUPPLIES**

Expenditure in this category refers to expenses incurred and paid by the taxpayer to insure, maintain, supplement and repair aids, special devices, alterations to assets, artificial limbs and organs, required by a person with a physical impairment or disability so that they can function or perform daily activities.

### **ARTIFICIAL LIMBS/ORGANS & OTHER**

1. Prosthetic breasts (needed because of a radical mastectomy), limbs or eyes.
2. Custom-made braces for limbs and woven or elasticised stockings.
3. Wigs – the amount paid for a wig by a person who has suffered abnormal hair loss due to a disease, accident, or medical treatment.
4. False teeth/dentures.

### **AIDS & OTHER DEVICES (EXCLUDING MOTOR VEHICLES, SECURITY SYSTEMS, SWIMMING POOLS AND OTHER SIMILAR ASSETS)**

Expenditure in this category refers to expenses incurred and paid by the taxpayer for aids and other devices, required by a person with a physical impairment or disability so that they can function or perform daily activities.

#### **Example:**

1. Air conditioner, air filter, cleaner, or purifier and environment control system (computerised or electronic) to prevent hypothermia or hyperthermia for a person with spinal cord injury or as required by a person with epilepsy.
2. Computer devices and related equipment (including the software to operate such devices) required by a person with a disability due to a moderate to severe impairment in hand functions or visual ability (e.g. track ball)
3. Computer or other electronic equipment required in order to convert printed material or image files into text, Braille, speech or any other accessible format, including peripheral equipment such as scanners, Braille printers, speakers and headphones for the personal use by or for a person with a disability.
4. Converted, printed and graphical material, including talking, Braille and large print textbooks, maps or drawings for a person with a disability.
5. Helmets (protective gear) – used by people with epilepsy to prevent injury, especially head injuries during the seizures.
6. Household tools (without which performing a task would not be possible) that enable a person with a disability to perform tasks of daily living.
7. Iron lung, a portable chest respirator that performs the same function and a continuous positive airway pressure machine.
8. Kidney machine, oxygen concentrator and extremity pump for a person diagnosed with chronic lymphedema.



9. Magnification and image-enhancement devices that enable a person to read, including optacons, large-screen computer monitors, magnifiers, video magnifiers, CCTV readers, video goggles, electronic magnifiers that plug into a computer, monitor or TV and telescopic spectacles.
10. Mobile ramps and tie-downs, used to assist wheelchair users in moving in and out of the vehicles or buildings that have no ramps.
11. Mobility aids, including wheelchairs, wheelchair carriers, crutches and walking frames.
12. Navigation aids, including white canes, sonic or tactile echo location devices and hand-held GPS devices and related software required by a person with a disability.
13. Orthopaedic shoes, boots, and inserts, including braces and including standard shoes and boots used by a person who walks with an unsteady gait when not using such aid.
14. Pacemakers.
15. Page-turning devices to assist a person to turn the pages of a book or other bound document for persons whose disability moderately or severely restricts their ability to use arms or hands.
16. Prescription spectacles and contact lenses.
17. Pressure care mattresses and body positioners to assist a person with a spinal cord injury to prevent pressure sores and correct postural alignment while lying down.
18. Shake awake alarms.
19. Signalling devices – emits light instead of sound (e.g. a light emitting doorbell).
20. Sound-recording, amplification and playback devices (e.g. audio recorders, hearing aids and dictaphones).
21. Speech-generating devices that enable a person to communicate, including a relevant keyboard.
22. Specialised anti-glare screens – for televisions and computers used by a person with photosensitive epilepsy to minimise exposure to seizures.
23. Special educational toys (e.g. touch, feel, sound etc) for a person with a disability.
24. Talking and sound-making devices that enable a person to perform daily tasks, including talking calculators, specially adapted cell phones, specially adapted watches, alarm clocks, kitchen and bathroom scales, light detectors, electronic hand held bar code readers and liquid level indicators.
25. Teletypewriters or similar devices required by a person with a disability to make or receive phone calls.
26. Television closed caption decoders (including volume control feature and visual or vibratory signalling device) required by a person with a disability.

27. Water filter, cleaner, or purifier – the expense incurred by a person to cope with or overcome a severe chronic respiratory ailment, or severe chronic immune system degeneration.
28. Word-to-text devices – for a person with a disability that causes moderate to severe impairment in hand functions or visual or hearing impairments) such as some persons with Cerebral Palsy.

## **SERVICES**

Expenditure in this category refers to expenditure incurred and paid by the taxpayer for services required by a person with a physical impairment or disability so that they can function or perform daily activities.

### **Examples:**

1. Deaf-blind intervening services.
2. Lip speaker services.
3. Note-taking services, including real-time captioning.
4. Reading services.
5. Rehabilitative therapy to teach a person to function or perform basic daily activities (e.g. how to use a wheel chair, dressing, grooming etc).
6. Sign-language interpretation services used by a person with a hearing impairment.
7. Special education schools for learners with disabilities. Qualifying expenses will include –
  - school assistant or classroom costs; and
  - school fees limited to the amount in excess of the fees that would have been payable if the person attended the closest fee-paying public school not specialising in learners with special educational needs.
8. School not specialising in learners with special educational needs – limited to additional expenses incurred and paid as a result of the disability.
9. Tutoring services used by, and which are supplementary to the primary education of a person with a learning disability or impairment in intellectual or mental functions, and paid to someone in the business of providing such services that is not related to the person being tutored.

### **PRODUCTS REQUIRED BECAUSE OF INCONTINENCE**

1. Catheters, catheter trays, tubing, or other products required for incontinence management.
2. Colostomy, urostomy and ileostomy products, and associated products and aids.
3. Diapers, disposable briefs, pads, linen and mattress savers for a person who is incontinent due to an illness, injury or affliction.
4. Anal-irrigation kits (bowel management).

### **SERVICE ANIMALS**

Expenditure in this category refers to expenditure incurred and paid in respect of a service animal required by a person with a disability in order to function or perform daily activities.

#### **Examples:**

1. The cost of an animal specifically trained to be used as an aid to perform daily functions.
2. The care and maintenance (including food and veterinarian care) of such an animal.

### **ALTERATIONS OR MODIFICATIONS TO ASSETS ACQUIRED OR TO BE ACQUIRED**

Expenditure in this category refers to expenditure incurred and paid by the taxpayer for alterations or modifications to assets to make such assets accessible or usable by a person with a physical impairment or disability so that they can function or perform daily activities.

#### **Examples:**

1. Power-operated stairs/lift or guided chairs to be used in a stairway and their installation cost. Driveway access – reasonable amounts paid to alter the driveway of the main residence.
2. Elevators to enable access to different levels of a building, enter or leave a vehicle, or place a wheelchair on or in a vehicle.
3. Amounts paid in respect of alterations to a new or existing primary residence to give a person reasonable access, mobility or functioning to or within the home, such as, –
  - buying and installing outdoor ramps where stairways impede the person's mobility;
  - enlarging halls and doorways to give the person wheelchair-access to the various rooms of the residence;
  - lowering kitchen or bathroom cabinets to give the person access to them; and
  - bathroom aids to help a person get in or out of a bath or shower or to get on or off a toilet.

#### **Note:**

The cost of acquiring the dwelling does not qualify for the deduction.

4. Vehicles – modifications to the vehicle to permit a person with a disability to gain access in and out of the vehicle or to drive the vehicle.

**Note:**

The cost of acquiring the vehicle will not qualify for a deduction.

5. Security systems – modifications to a security system (e.g. alarms) to enable a person with a disability to use or operate it. For example, modifications to the alarm system to emit a red light instead of making a sound to warn a person with a hearing impairment that the alarm has been activated will qualify.

**Note:**

The cost of acquiring and installing the security system itself will not qualify for a deduction.

6. Swimming pools – modifications or alterations to a swimming pool to enable a person with a disability to gain access in and out of the swimming pool, for example, installing rails or a hoist.

**Note:**

The construction and installation cost of the swimming pool will not qualify.

## **APPENDIX B**

**- Confirmation of Diagnosis of Disability (Form ITR-DD) -**

**Instructions**

- This certificate must not be submitted with your tax return but must be retained and only submitted to SARS on request.
- Complete Part A of this form. Remember to sign the authorisation area below.
- Take this form to a duly qualified medical practitioner (a person required to register with the Health Professional Council of South Africa) specially trained to deal with the applicable disability to complete Parts B and C.

**Part A – Details of the Person with a Disability** (To be completed by a person with the disability or his or her parent / guardian / curator where applicable)

PRSIF01

**Personal Details**

Surname																									Income Tax Ref No.				
First Two Names																									Home Tel No.				
Initials					Date of Birth (CCYYMMDD)					ID No.					Bus Tel No.														
Passport No.									Passport Country (e.g. South Africa = ZAF)			Cell No.					Fax No.												
Contact Email																													

**Physical Address**

Unit No.					Complex (if applicable)																								
Street No.					Street / Name of Farm																								
Suburb / District																													
City / Town																									Postal Code				

**Postal Address**

Mark here with an "X" if same as above or complete your Postal Address

																								Postal Code				

**Details of the Person Claiming the Deduction** (If different from page 1)

PRSIF01

**Personal Details**

Surname

Income Tax Ref No.

First Two Names

Home Tel No.

Initials  Date of Birth (CCYYMMDD)  ID No.

Bus Tel No.

Passport No.  Passport Country (e.g. South Africa = ZAF)  Cell No.

Fax No.

Contact Email

Indicate the person with a disability's relationship to you. Spouse  Child  Other  Specify

**Physical Address**

Unit No.  Complex (if applicable)

Street No.  Street / Name of Farm

Suburb / District

City / Town  Postal Code

**Postal Address**

Mark here with an "X" if same as above or complete your Postal Address

Postal Code

**Authorisation**

As the person with the disability or his or her parent / guardian / curator, I authorise the duly registered medical practitioner(s) having the relevant medical / clinical records to provide to, or discuss with, the South African Revenue Service the information contained in those records or on this certificate for the purpose of determining eligibility for claiming medical deductions under section 18(2)(b) of the Income Tax Act, 1962.

Signature

Date (CCYYMMDD)

For enquiries go to  
www.sars.gov.za or call  
+27 800 00 SARS (7277)

**Notes before completing this section**

- Your patient must be a person with a disability as defined in section 18(3) of the Income Tax Act. In this section – **“Disability”** means a moderate to severe limitation of a person’s ability to function or perform daily activities as a result of a physical, sensory, communication, intellectual or mental impairment, if—  
(a) the limitation has lasted or has a prognosis of lasting more than a year; and  
(b) is diagnosed by a duly registered medical practitioner in accordance with criteria prescribed by the Commissioner.
- “Moderate to severe limitation”**, in the context of disability means a significant restriction on a person’s ability to function or perform one or more basic daily activities after maximum correction, except where indicated. Maximum correction in this context means appropriate therapy, medication and use of devices.
- The diagnostic criteria seek to assess the functional impact of the impairment on a person’s ability to perform daily activities and not the diagnosis of a medical condition.
- Please complete the section(s) that apply to your patient.
- Please remember to complete and sign Part C of this form.

Disability	Duly registered medical practitioner (“practitioner”) specially trained to deal with the applicable disability
Vision	Practitioner trained to use the Snellen chart (e.g. an optometrist or ophthalmologist).
Hearing	Practitioner trained to perform or conduct a battery of the Diagnostic Audiometry tests. (e.g. an Ear, Nose and Throat Specialist or Audiologist).
Speech	E.g. Speech-Language Pathologist
Physical	E.g. Orthopaedic Surgeon, Neuro Surgeon, Physiotherapist or Occupational Therapist.
Intellectual	E.g. Psychiatrist or Clinical Psychologist
Mental	E.g. Psychiatrist or Clinical Psychologist

**Vision**

Applicable

It is SARS’s policy, in determining whether a person has a disability for the purposes of section 18(3) of the Income Tax Act, to follow the guidelines specified by the World Health Organisation. The minimum requirement for a person to be classified as a blind person is as follows:

Criteria	Minimum Requirement
Visual Acuity	In the better eye with best possible correction, less than 6/18 (0.3).
Visual Field	10 degrees or less around central fixation.

“6/18” means that what a person with normal vision can read at 18 metres, the person being tested can only read at 6 metres.

“Best possible correction” refers to the position after a person’s vision has been corrected by means of spectacles, contact lenses or intra-ocular (implanted) lenses.

Is your patient’s impairment in accordance with these criteria?

Y  N

If Yes, when did your patient for the first time meet these criteria? (CCYYMM)

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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**Communication**

Applicable

For purposes of section 18(3) of the Income Tax Act, a person is regarded as having a moderate to severe communication disability if he or she has any one or a combination of the following, which even with appropriate therapy, medication and devices, substantially limits (that is, more than inconvenient or bothersome) one or more major life activity below that is age-appropriate:

- Inability to make self understood to familiar communication partners using speech in a quiet setting;
- Inability to make self understood, to familiar and or non-familiar communication partners and to meet communication needs as appropriate for his/her age by using speech, in less than 30 intelligible words;
- Problems in understanding meaningful language by familiar communication partners that lead to substantial difficulty in communicating or
- The need to rely on augmentative or alternative communication (AAC), including unaided (Sign language or other manual signs) or aided means of communication (ranging from communication boards to speech generating devices).

Is your patient’s impairment in accordance with these criteria?

Y  N

If Yes, when did your patient for the first time meet these criteria? (CCYYMM)

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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**Physical**

Applicable

A person is regarded as a person with a disability if his or her impairment is to such an extent that he or she –

- Is unable to walk, for example, wheelchair user;
- Is only able to walk with the use of assistive devices, for example, callipers, crutches, walking frames and other such devices;
- Is able to walk without the use of assistive devices but with a degree of difficulty, for example, persons with Cerebral Palsy, Polio etc (that is, requires inordinate amount of time to walk);
- Is functionally limited in the use of their upper limbs.

Is your patient's impairment in accordance with these criteria?

Y  N

If Yes, when did your patient for the first time meet these criteria? (CCYYMM)

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**Mental**

Applicable

With the exclusion of intellectual disability, a person is regarded to be A person with a mental disability if he or she has been diagnosed, in terms of accepted diagnostic criteria (Diagnostic and Statistical Manual IV-TR (DSM-IV-TR)) by a mental health care practitioner authorised to make such diagnosis, with a mental impairment that disrupts daily functioning and this impairment moderately or severely interferes or limits the performance of major life activities, such as learning, thinking, communicating and sleeping, among others.

**Notes:**

- Moderate impairment means a Global Assessment Functioning Score (GAF-Score) between 31 and 60; and
- Severe impairment means GAF-Score of 30 and below.

Is your patient's impairment in accordance with these criteria?

Y  N

If Yes, when did your patient for the first time meet these criteria? (CCYYMM)

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**Hearing**

Applicable

Hearing disability is defined as the functional limitations resulting from a hearing impairment. Hearing impairment is a sensory impairment that will influence verbal communication between speaker and listener.

1. An adult is considered moderately to severely hearing impaired when the hearing loss is described as follows without the use of an amplification device/s:
  - Bilateral hearing loss with a pure tone average equal to or greater than 25 dBHL in each ear.
  - Unilateral hearing loss with pure tone average equal to or greater than 40 dBHL in the affected ear.
2. A child is considered moderately to severely hearing impaired when the hearing loss is described as follows without the use of an amplification device/s:
  - Bilateral hearing loss with a pure tone average greater than 15 dBHL in each ear;
  - Unilateral hearing loss with a pure tone average equal to or greater than 20 dBHL in the affected ear.

**Notes:**

- Hearing impairment is an abnormal or reduced function in hearing resulting from an auditory disorder.
- A child is a person between the ages of 0 to 18 years.
- Amplification devices include hearing aids, implantable devices and assistive listening devices.
- Pure Tone Average (PTA): average of hearing sensitivity thresholds (in decibel hearing level) to pure tone signals at 500 Hz & 1000 Hz, 2000 Hz & 4000 Hz of each ear.
- Bilateral hearing loss is a hearing sensitivity loss in both ears.
- Unilateral hearing loss is a hearing sensitivity loss in one ear only.

Is your patient's impairment in accordance with these criteria?

Y  N

If Yes, when did your patient for the first time meet these criteria? (CCYYMM)

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**Intellectual**

Applicable

A person is regarded to be a person with an intellectual disability if he or she has a moderate to severe impairment in intellectual functioning that is accompanied by a significant limitation in adaptive functioning in at least two of the following skill areas:

- Communication
- Self-care
- Home living
- Social/interpersonal skills
- Use of community resources
- Self-direction
- Functional academic skills, work, leisure, health and safety.

**Notes:**

- Moderate impairment means an Intelligence Quotient (IQ) between 35 and 49; and
- Severe impairment means IQ of 34 and below.

Is your patient's impairment in accordance with these criteria?

Y  N

If Yes, when did your patient for the first time meet these criteria? (CCYYMM)

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**Part C - Certification** (To be completed by a duly registered medical practitioner specially trained to deal with the applicable disability)

1. Considering the diagnostic criteria, in Part B do you consider the functional limitations of the applicable disability or disabilities on your patient's ability to perform activities of daily living, to be –

Mild  Moderate to Severe

2. If the answer to the above question is 'moderate to severe', describe the functional impact of the impairment(s) on your patient's ability to perform activities of daily living. If more space is required, attach a separate sheet of paper.


3. Has your patient's disability lasted, or is it expected to last for a continuous period of more than 12 months? Yes  No

**Note:**  
If the impairment(s) are moderate to severe and has lasted or has a prognosis of lasting more than 12 months, your patient will be regarded as a person with disability as defined in section 18(3) of the Income Tax Act.

4. If the answer to question 1 is 'moderate to severe' and the answer to question 3 is Yes, is the disability of a permanent nature? Yes  No

**Notes:**  
a) If the answer to question 4 is Yes, please note:  
 • If your patient qualified as a person with a disability for the first time in the 2010 year of assessment or years of assessment prior to 2010, this certificate will be valid for the period of 5 years from 1 March 2009.  
 • If your patient qualified as a person with a disability for the first time after the 2010 year of assessment, this certificate will be valid for the period of 5 years from 1 March of the year of assessment in which the duly registered medical practitioner signed this form.  
 b) If the answer to question 4 is No, please note:  
 • If your patient qualified as a person with a disability for the first time in the 2010 year of assessment or years of assessment prior to 2010, this certificate will be valid for the period of 1 year from 1 March 2009.  
 • If your patient qualified as a person with a disability for the first time after the 2010 year of assessment, this certificate will be valid for the period of 1 year from 1 March of the year of assessment in which the duly registered medical practitioner signed this form.

5. Considering the above, as a duly registered medical practitioner, I certify that this person is: Person with a disability  Person without a disability

**Note:** Please select the applicable

**Declaration**

As a duly registered medical practitioner, I certify that to the best of my knowledge the information given in Part C of this form is correct and complete and I understand that this information will be used by the South African Revenue Service to determine if my patient is eligible for medical deductions in terms of section 18(2)(b) of the Income Tax Act, 1962.

Signature

Date (CCYYMMDD)

Date of determination (CCYYMMDD)

Practice Stamp

For enquiries go to  
www.sars.gov.za or call  
+27 800 00SARS (7277)

**Personal Details**

Surname																					HPCSA No.									
First Two Names																					Bus Tel No.									
Initials					Date of Birth (CCYYMMDD)					ID No.							Cell No.													
Email																														
Profession																														

(e.g. an Optometrist, Ophthalmologist Ear, Nose and Throat Specialist, Audiologist, Speech-Language Pathologist, Orthopaedic Surgeon, Neuro Surgeon, Physiotherapist, Occupational Therapist, Psychiatrist, Clinical Psychologist etc.)

**Business Address**

Unit No.					Complex (if applicable)																									
Street No.					Street / Name of Farm																									
Suburb / District																														
City / Town																					Postal Code									

**Postal Address**

Mark here with an "X" if same as above or complete your Postal Address

																				Postal Code									

## **APPENDIX C**

**- Permission Letter from the Manager of the Maranatha Bana Centre -**



UNIVERSITEIT VAN PRETORIA  
UNIVERSITY OF PRETORIA  
YUNIBESITHI YA PRETORIA  
Faculty of Economic and  
Management Sciences

## Letter of introduction

### Department of Taxation

# SOUTH AFRICAN REVENUE SERVICE'S PRESCRIBED LIST OF QUALIFYING DISABILITY EXPENDITURE: AN EXPLORATORY STUDY

Research conducted by:

Mrs. Liza (E.S.M.) Coetzee (89449381)  
Cell: 082 457 4805

4 August 2010

Dear Mrs Barrett

We would like to obtain your permission as manager of the Maranatha Bana Centre (NPO 054972) to invite parents of children attending the centre to participate in an academic research study. The study will be conducted by Liza Coetzee, a Masters student from the Department of Taxation at the University of Pretoria.

The purpose of the study is to explore the possible existence of an expense which was necessarily incurred and paid during the 2010 year of assessment by a parent in consequence of his or her disabled child, but which does NOT fall into any one of the nine mentioned categories making up SARS's list of qualifying disability expenses. Consequently such an expense can then not be claimed by the parent for Income Tax purposes.

Please note the following:

- This study involves an anonymous survey - Liza Coetzee will interview the parents at a time and place convenient to them. The interview should take more than 45 minutes. Neither the parent's nor the child's name or diagnosis will appear on the questionnaire and the answers provided will be treated as strictly confidential. The parents will not be identified in person based on the answers they give.
- The parents' participation in this study is very important to us. A parent may, however, choose not to participate and may also stop participating at any time without any negative consequences.
- The results of this study will be used for academic purposes only and may be published in an academic journal. We will provide you with a summary of our findings on request.
- Please contact my supervisor (Prof M Stiglingh at ms@up.ac.za), if you have any questions or comments regarding the study.

Please sign the form to indicate that:

- You have read and understand the information provided above.
- You give your consent that parents of children attending the Maranatha Bana Centre may be invited to participate in the study on a voluntary basis.

**Mrs Filicia Barrett**  
**(Manager: Maranatha Bana Centre NPO 054972)**

**Date : 04 Aug 2010**

**APPENDIX D**  
**- Informed Consent Form -**



**Informed consent for participation in an academic  
research study**

**Department of Taxation**

**INTRODUCTION OF THE PRESCRIBED  
LIST OF QUALIFYING DISABILITY EXPENDITURE:  
AN EXPLORATORY STUDY**

Research conducted by:  
Mrs. Liza (E.S.M.) Coetzee (89449381)  
Cell: 082 457 4805

5 February 2011

Dear Respondent

You are invited to participate in an academic research study conducted by Liza Coetzee, a Masters student from the Department of Taxation at the University of Pretoria.

The purpose of the study is to explore the possible existence of an expense which was necessarily incurred and paid during the 2010 year of assessment by a parent in consequence of his or her disabled child, which does NOT fall into any one of the nine mentioned categories making up SARS's list of qualifying disability expenses.

Please note the following:

- This study involves an anonymous survey. Your name will not appear in the study and the answers you give will be treated as strictly confidential. You can not be identified in person based on the answers you give.
- Your participation in this study is very important to us. You may, however, choose not to participate and you may also stop participating at any time without any negative consequences.
- Please answer questions during the interview as completely and honestly as possible. This should not take more than 45 minutes of your time.
- The results of this study will be used for academic purposes only and may be published in an academic journal. We will provide you with a summary of our findings on request.
- Please contact my supervisor (Prof M Stiglingh at ms@up.ac.za), if you have any questions or comments regarding the study.

Please confirm that:

- You understand the information provided above.
- You give your consent to participate in the study on a voluntary basis.

## **APPENDIX E**

### **- Questionnaire for Semi-structured Interviews -**



For office use only	
Number	

### QUESTIONNAIRE

**Mark your applicable answer/s by either circling or marking with an X the number next to your appropriate response (unless otherwise indicated).**

1. Please indicate your gender:

Male	1
Female	2

V1	
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2. Please indicate to which population group you belong:

Black / African	1
Coloured	2
Indian	3
White	4
Other, please specify _____	5

V2	
----	--

3. Please select the one option which best describes your marital status:

Single / Divorced / Widowed	1
Unmarried, but in a committed relationship	2
Married	3
Other, please specify	4

V3	
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4. Relating to the 2010 year of assessment, for how many disabled children have you claimed a tax deduction?

child / children
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V4	
----	--

5. Please indicate the age of the disabled **child / children**:

Child 1	years
Child 2	years

V5	
V6	

6. Please indicate the nature of the child's disability or combination of disabilities as explained in form ITR-DD issued by SARS (form ITR-DD is attached to this document). Also provide the name of the child's condition or disability where possible:

**Child 1:**

Visual	1
Hearing	2
Communication	3
Physical	4
Intellectual	5
Mental	6

V7							
----	--	--	--	--	--	--	--

**Child 2:**

Visual	1
Hearing	2
Communication	3
Physical	4
Intellectual	5
Mental	6

V8							
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7. Please indicate your relationship to the disabled child (a child includes an adopted child):

**Child 1:**

I am the child's mother	1		
I am the child's father	2		
The child is my spouse's child out of a previous marriage	3		
The child is my life partner's child out of a previous marriage	4		
Other, specify _____	5	V9	

**Child 2:**

I am the child's mother	1		
I am the child's father	2		
The child is my spouse's child out of a previous marriage	3		
The child is my life partner's child out of a previous marriage	4		
Other, specify _____	5	V10	

8. Is your disabled child registered as a dependant on a medical scheme of which either you or someone else (e.g. your spouse) is the main member?

**Child 1:**

Yes	1
No	2

V11	
-----	--

**Child 2:**

Yes	1
No	2

V12	
-----	--

9. Please provide a list of all expenses that you have **necessarily incurred and paid in consequence of your child's disability** during your 2010 year of assessment. The researcher and the participant will now together identify which of these expenses do **NOT** appear on the prescribed list issued by SARS.

Note that any costs which have been recovered by you (for example from a medical scheme) may not be listed. If you are claiming for more than 1 disabled child, please indicate in respect of which child the expense is claimed (as indicated in question 5 above).

Provide the nature of the expense (amounts are not necessary) and the reason why you consider it to have been **necessarily incurred and paid in consequence of your child's disability**.

1)	
	V13

2)	

	V14

3)	
	V15

4)	
	V16

**Thank you for taking part in the survey.**