

Disabled Child Expense And The South African Revenue Service

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ABSTRACT

As from the 2010 year of assessment, a taxpayer-parent caring for a disabled child can only deduct an expense necessarily incurred and paid in consequence of the child's disability, if it also appears on the South African Revenue Service's prescribed list of disability expenses. The aim of the research was to evaluate the completeness of this list. A questionnaire was developed to be used for semi-structured interviews with 20 parents of severely disabled children. These interviews provided real-life examples of expenses which do not appear on the list, but which seem to be necessarily incurred and paid in consequence of the relevant child's disability. It was found that the South African Revenue Service should reconsider the completeness and clarity of the list from the perspective of a parent caring for a severely disabled child.

Keywords: South African Revenue Service; List of Disability Expenses; Disabled Child

INTRODUCTION

It is estimated that 5%¹ of the South African population live with a disability. These disabilities restrict the ability of these individuals to perform daily activities (Statistics South Africa, 2005, pp. 11, 14). In order to function as normally as possible, they might have to incur certain expenses (Anderson, 1998, pp. 117-119; Cowan, 1998, p. 147; Gersh, 1998, pp. 28, 84).

Qualifying expenses incurred by a disabled taxpayer, or a taxpayer caring for a disabled spouse or child, are allowed as a deduction in the calculation of taxable income (Section 18(1)(a) – (d) and Section 18(2)(b) of the Income Tax Act No. 58 of 1962, hereafter called 'the Act') (Republic of South Africa, 1962). The Act defines a disability as a physical, visual, hearing, communication, intellectual, or mental limitation (or any combination thereof). The limitation on a person's ability to function or perform daily activities must be moderate to severe and it must have lasted for a year or have a prognosis of lasting more than a year. The limitation must be diagnosed by a duly registered medical practitioner (who needs to complete an ITR-DD form which is then valid for five years) in accordance with prescribed criteria, based on the functional impact of the limitation as opposed to the medical diagnosis thereof (Section 18(3), SARS, 2010b, p. 3).

In order to qualify for deduction, the expense must have been *necessarily incurred and paid in consequence of the disability* (Section 18(1)(d)). As from 1 March 2009 – that is from the 2010 year of assessment – the South African Revenue Service (SARS) introduced a list of expenses associated with disabilities (SARS, 2010a). From this date onwards, the expense also has to appear on the list in order to qualify for deduction. According to SARS, the list was introduced to bring clarity as to the type of qualifying expenses and not to add another 'filter' (SARS, 2009, p. 2). Although a draft list was made available as part of a discussion paper during October 2009, the final list was only published after the commencement of the 2010 year of assessment (on 21 April 2010).

It is therefore expected that the list is complete and that all the different types of expenses that could be *necessarily incurred and paid in consequence of a disability*, appear on the list. According to SARS (2010c, p. 1), "care was taken to ensure that it [the list] does not exclude a legitimate expense." This is also the reason given by

¹ Amounting to 2 255 982 people according to data collected as part of Census 2001 which took place on 10 October 2001.

SARS that, instead of a comprehensive list, broad categories were identified with examples of expenses that can be claimed. The list contains nine broad categories of expenses. Although not numbered in the original document, the different categories of expenses were numbered as follows for ease of reference:

- 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.

The aim of the research reported in this article was to examine the completeness of the list from the perspective of a parent caring for a disabled child. This was done by looking into the possible existence of expenses which had been necessarily incurred and paid by parents (who are taxpayers) during their 2010 year of assessment in consequence of their children's disabilities, but which did not appear on the list. Such expenses would then *not* have qualified for deduction in the parents' 2010 year of assessment (SARS, 2009, p. 5). The research appears to be the first of its kind in South Africa. Data was collected by way of semi-structured interviews (using a questionnaire) conducted with 20 parents of disabled children.

In this article the meaning of *necessarily incurred and paid in consequence of* is clarified. Thereafter, the research methodology is explained, the results and findings of the research are reported and analysed, and a conclusion is drawn. It is envisaged that the reported research will contribute to a greater understanding of the type of expenses incurred by parents caring for severely disabled children that should be considered by SARS in expanding its list.

CLARIFICATION OF TERMS

As from the 2010 year of assessment, parents will only be able to deduct 'listed' disability expenses (that is, expenses which appear on the SARS list) which have been *necessarily incurred and paid in consequence of* the child's disability. It can only be concluded that the list is incomplete, if a specific expense was *necessarily incurred and paid in consequence of* the child's disability, without appearing on the list. It is therefore crucial to understand what these words mean.

The Meaning of 'Necessarily Incurred and Paid in Consequence of'

As these words are not defined in the Act, they should be given their ordinary meaning as described in dictionaries and laid down by the courts (*Blue Circle Cement Ltd v Commissioner for Inland Revenue*, 1984, p. 24; SARS, 2010a, p. 1).

The Meaning of 'Necessarily'

In the context of the research undertaken, *necessarily* means that the expense should have been caused by or should be by reason of the child's disability (*Cambridge Advanced Learner's Dictionary*, Not dated). 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 (*AskOxford.com*, Not dated; SARS, 2010a, p. 1).

The Meaning of 'Incurred'

The word *incurred* means that the parent must have an unconditional legal obligation to settle the expense (Edgars Stores Ltd v Commissioner for Inland Revenue, 1988, p. 90). The parent should therefore retain the relevant documents, such as an invoice made out in his name, to prove this (Section 82).

The Meaning of 'Paid'

The meaning of *paid* needs no explanation, but the onus to prove payment is on the parent (Section 82). The type of documentary proof will depend on the payment method; this can include credit card slips signed by the parent, proof of electronic fund transfer, the parent's bank statements showing a payment, a receipt made out in the parent's name or statements from suppliers indicating payment by the parent. Cash payments are more difficult to prove: a receipt made out in the parent's name will be sufficient, but a till slip simply proves payment by somebody (who need not be the parent).

The Meaning of 'In Consequence of'

After exploring the meaning of the word consequence, it follows that the phrase in consequence of means that the expense must be a direct result of the specific type of disability (AskOxford.com, Not dated; Cambridge Advanced Learner's Dictionary, Not dated; SARS 2010a, p. 1). SARS (2009, p. 5; 2010a, p. 1) provides the following example: A talking hand-held GPS appears on the prescribed list. For a blind person, the cost of the GPS and related software will 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. Consequently, the cost of the GPS will qualify for deduction. 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 GPS will neither be necessarily incurred nor in consequence of his disability as his disability relates to the limitation of movement and not sight. Consequently, the cost of the GPS will not qualify for deduction.

To further explain the meaning of *necessarily incurred and paid in consequence of*, case law dealing with the deductibility of disability expenses will now be analysed.

Case Law

The following two court cases, both decided in the Special Board (now called the Tax Board), are relevant:

- 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

After analysing these cases, it was 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. This was done to analyse the impact of the introduction of the list by SARS.

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

In this Special Board Decision (1996, p. 24), the cost of razor-wire to secure the residence of a person with a physical disability (he had no arms) was allowed as a deduction. By arguing that the crime rate was very high in his area at that time and that he had to safeguard himself as he was living alone and could not handle a fire-arm, the taxpayer succeeded in proving that such costs were necessarily incurred in consequence of his disability.

Special Board Decision No. 56 Applied to a 2010 Year of Assessment

The question arises, if the same taxpayer 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. First of all it needs to be determined whether this type of expense appears on the list.

The cost of “aids and other devices, *excluding* motor vehicles, *security systems*, swimming pools and other similar assets” (own emphasis) (SARS, 2010a, p. 4) is included in the list. The cost of razor wire is therefore not included under this category.

Also listed, is “expenditure incurred and paid [...] for alterations or modifications to assets to make such assets accessible or usable by a person with a [...] disability [...] so that they can function or perform daily activities” (own emphasis) (SARS, 2010a, p. 7). The cost of modifications to *security systems* is included as an example under this category, but it is expressly stated by SARS (2010a, p. 8) that “the cost of acquiring and installing the *security system itself*, will not qualify for a deduction.” It therefore appears as if the cost of the razor wire is also not included under this category of the list.

According to the researcher, these are the only two categories on the list into which the cost of the razor wire could possibly fit. The researcher also followed an external review process whereby a panel of six people were asked to express an opinion on whether the cost of the razor wire in the above scenario appears on the 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). All six of them agreed that the cost of the razor wire is not ‘listed’ (Bronkhorst et al., 2011, p. 5).

Although non-inclusion under the list immediately disqualifies the expense for deduction, the other requirements were also considered to illustrate the research problem that was addressed. The razor wire can be said to have been incurred in consequence of (as a direct result of) the taxpayer’s physical disability, but can it be said that it was necessary or unavoidable in order for him to perform his daily functions. In order to answer this question one would have to consider the crime situation in the taxpayer’s neighbourhood during 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 activity². Even if this were proved to be the case, the cost of the razor wire would not have been allowed as a deduction in the 2010 year of assessment, as it is not listed. Thus, the expense would be disallowed due to the introduction of the list.

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

In another Special Board hearing (2002, p. 41), a taxpayer’s child was born with Down’s syndrome (which was accepted as a disability) and the taxpayer claimed the costs relating to his child’s facilitator, school fees, after-school care centre fees, and the cost of transporting the child to and from school. It is crucial to note that the child attended a normal school and not a special school for disabled learners, and that the after-school care centre was also located at that normal school.

Only the cost of the facilitator was allowed; all the other costs were disallowed. It was held that all the other expenses were not necessarily incurred in consequence of the child’s disability. Any normal child of the same age has to attend school, after-school care (where both 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.

Special Board Decision No. 167 Applied to a 2010 Year of Assessment

The question arises, if the same taxpayer with the same disabled child had incurred and paid these same costs during his 2010 year of assessment, whether or not these costs would have qualified for deduction.

First of all, these expenses have to be listed. The salary paid by the parent of a disabled child to someone employed primarily to look after the child, even if such a person assists with housekeeping chores from time to time,

² Interpretation Note No. 45 (issued 30 June 2008), that deals with the deductibility of security expenses, deems the cost of the razor wire to be private or domestic expenses, which is disallowed by Section 23(i) of the Act (SARS, 2008, p. 1). However, Section 18 overrides Section 23 and therefore Interpretation Note 45 can be ignored.

is listed (SARS, 2010a, p. 2). It is also clear that the cost of employing the facilitator will be necessarily incurred and paid in consequence of the child's disability, for the same reasons as in the 2002 year of assessment.

With regard to the normal school fees and the cost of the after-school care centre: only that portion of the normal school fees equal to additional expenses charged due to the disability, is listed (SARS, 2010a, p. 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 are included in the list, which was confirmed by way of external review (Bronkhorst et al., 2011, p. 3).

With regard to the travelling costs to and from the normal school: the list (SARS; 2010a, p. 3) includes transport costs related to a learner who attends a special school, but only in circumstances where no specialised school is available in the area, suburb or town where the taxpayer lives. Thus, as the taxpayer's child attended a normal school, it appears as if none of the travelling costs would have qualified. The external review arrived at the same conclusion (Bronkhorst et al., 2011, p. 3).

It is also evident that these three types of expenses would still not have been necessarily incurred and paid in consequence of the child's disability (for the same reasons as in the 2002 year of assessment). Therefore, the same results will be obtained in the 2010 year of assessment. This is not only due to the introduction of the list, but also to the fact that a direct link was not present. The list actually made it easier to arrive at the same answer. Although the list provided more certainty regarding the type of disability expenses that will be allowed as a deduction, it did not allow a wider range of expenditure, as SARS (2009, p. 1) claims to be the case.

The primary objective of the research reported in this article was to evaluate the completeness of the 2010 list of disability expenses from the perspective of parents caring for their disabled children. The aim was not to create a complete list of disability expenses, but merely to determine if there was any unlisted expense that was *necessarily incurred and paid* by a parent *in consequence of* a child's disability. This means that the unlisted expense must be unavoidable in order to help the disabled child to perform activities (that would otherwise not have been possible), taking the specific type of disability of the child into account. This will prove that the list is incomplete.

Furthermore, the outcome of testing the facts of Special Board Decision No. 56 against a 2010 year of assessment proved that in theory the list could indeed be incomplete. The methodology followed by the researcher to test the completeness of the list against practical examples is described below.

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 requirements to be met before disability expenses are deductible were explained to the respondents. The purpose of the study and the research problem were explained to them 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 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, pp. 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 triangulation: the researcher, together with the respondent, determined whether or not the specific type of expense is listed. Thereafter an external review process was followed.

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.

The data obtained during the interviews were analysed and interpreted. The results and findings of the study are presented and discussed below.

RESULTS AND FINDINGS

Twenty parents were interviewed. In three instances, both parents of a specific child were interviewed, as both were taxpayers.³ One parent was caring for two disabled children during the 2010 year of assessment. The data therefore related to expenses incurred by 20 parents in respect of 18 children (calculated as follows: 20 parents of 20 children, less three children double counted as both parents were interviewed, plus a sibling not yet counted equals 18 children.). The ages of the children varied between 4 and 18 years, with the average age being 10.5 years.

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 diagnosed according to the criteria prescribed in the Act were used for this purpose. The analysis of the nature of disabilities, as well as the total number of disabilities per child, is set out in Table 1.

Table 1: Disability Analysis

Child No.	Visual	Hearing	Communication	Physical	Intellectual	Mental	Disabilities
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 clear that 17 of the 18 children have various disabilities and that only one child has a single disability. None of the children has all six disabilities, as can be seen from Table 2.

³ As taxpayers can only claim disability expenses paid for by themselves, expenses could not be double counted.

Table 2: Analysis of Children who Have 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), followed by communication disability (15 children), physical disability (12 children) and mental disability (12 children). Seven children have a visual disability and only one a hearing disability. The analysis of the number of children who have a specific type of disability is set out in Table 3.

Table 3: Analysis of Specific Type of Disability

Disability	Visual	Hearing	Communication	Physical	Intellectual	Mental
No. of children	7	1	15	12	17	12

All 18 children were registered as dependants on their parents’ medical scheme. Therefore, some of the expenses incurred by the parents could have been covered by the medical scheme. However, expenses in consequence of one child’s disabilities (caused by a serious car accident) were not covered by the medical scheme.

During the interviews it became clear that the majority of the expenses claimed by the respondents are listed. However, 26 different expenses were identified where both the researcher and the respondents were uncertain whether the expense is listed. The researcher classified these 26 expenses into seven broad classes, which are set out in Table 4.

Table 4: Expense Classes Which do not Appear on the List

Category	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

Expenses Relating to Feeding and Supplements

A child with a physical disability, for example cerebral palsy, does not have proper control over oral muscles in order to control movements of the jaws, lips, tongue and facial muscles which are used in speaking, chewing and swallowing (Gersh, 1998, p. 19). Children who swallow with difficulty also have feeding problems that result in their being underweight. Some of the parents explained that feeding their child takes hours at a time and requires much patience.

This class included the following types of expenses:

- The cost of feeding devices such as bottles and teats. (This was required for one child who cannot drink from a cup.)
- Products used for tube feeding, which is done by inserting a tube into the stomach through a small incision in the abdomen. In this way nutrition is provided to patients who cannot obtain nutrition by swallowing. (Two children needed to be fed in this way.)
- Daily vitamins for building up the immune system. (Vitamins were given to five children. According to the parents, these children have a very low immune system and very easily get a secondary infection after catching a cold.)
- Feeding supplements. These are not vitamins. (Supplements were required for one child to build his immune system and to gain weight.)
- Soya milk for children who cannot drink cow’s milk. (One child needed soya milk because cow’s milk produces too much mucus and causes 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 as a normal child can.)

The list allows the costs of *aids and other devices* required by the disabled person to function or perform daily activities (SARS, 2010a, p. 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, p. 2). All the other costs included in this class of expenses, do not fall into this category as they do not relate to the cost of *aids or devices*, but rather to consumables. They also do not fall under any category of the list, which was confirmed by external review (Bronkhorst et al., 2011, p. 2).

Expenses Relating to School Fees

Although sixteen of the children attended either a care centre or a special school, only nine of the parents claimed the *full* school fees for normal tax purposes. In the case of special schools, the list (SARS, 2010a, p. 6) allows only the school fees in excess of the fees of the closest public school. It is uncertain why the list allows only the excess, as it is submitted that the full amount was indeed necessarily incurred in consequence of the child's disability. The external review (Bronkhorst et al., 2011, p. 2) indicated that the full fees might appear on the list as paid to "educational institutions that cater to specific disabilities" (SARS, 2010a, p. 2).

One child (who was born with Down syndrome) had previously attended a special school, but moved to a normal school from the beginning of the 2010 calendar year. The parent claimed the full school fees of the normal school for the relevant number of months. In the case of a normal school, the list (SARS, 2010a, p. 6) allows only additional expenses (over and above school fees) paid to the school as a result of a disability. In other words, the full normal school fees are not allowed in terms of the list. This was confirmed by external review (Bronkhorst et al., 2011, p. 3).

This child's parent explained that the child was moved to a normal school in order to learn by way of imitating normal children; not because the child was functioning on the level of a normal child. Furthermore, there was no guarantee at that moment that the child would cope in the normal school and he might have to be moved back to a special school in future. The parent argued that the full school fees were therefore indeed necessarily incurred and paid in consequence of the child's disabilities.

This scenario is very similar to that of Special Board Decision No. 167 (discussed above). 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 the child's disability.

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, a printer, and 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).

The 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, p. 4). Included as examples under this category on the list, are the cost of computer devices and related equipment *used by the disabled person*, which is clearly not the case here. Again it appears as if these costs could qualify under the general description, even though not specifically mentioned as one of the examples provided in this category of the list. It is therefore uncertain whether or not these expenses appear on the list. This view was confirmed by external review (Bronkhorst et al., 2011, p. 3).

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 great impact on the child's social skills and ability to interact with people as he no longer sits in the corner all day. 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.

The 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, p. 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, pp. 3-4).

Expenses Relating to Obsessive Behaviour

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

As mentioned earlier, the 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, p. 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 the light on and off all the time, the disabled child who shows obsessive behaviour gets through his day more easily.

The cost of repairing the switch may therefore fall into the general description under this category of the list, even though it is not included as one of the examples provided in this category. The external review (Bronkhorst et al., 2011, p. 4) pointed out that this cost may also appear on the list as the cost of repairs to devices required by a disabled person to function (SARS, 2010a, p. 3). If the parent can prove that the cost of repairing the switch was necessarily incurred and paid in consequence of the child's disabilities, it appears as if this cost is included on the list.

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 physically disabled, among other disabilities. He does not walk normally, but shuffles on his bottom (generally referred to as 'bum shuffling'). The child is therefore regularly in contact with unhygienic surfaces. This expense is not catered for on the prescribed list, which was confirmed by external review (Bronkhorst et al., 2011, p. 4).

Expenses Relating to Transport

One parent claimed the difference between the cost of the vehicle which she used to drive and the cost of a bigger vehicle, which she purchased to have enough space to transport her disabled child, his facilitator and all his special equipment (a stroller, standing frame, and walking frame). The child is nine years old and has five disabilities (visual, communication, physical, intellectual, and mental).

The list allows the cost of *alterations or modifications* to assets acquired, for example alterations to vehicles to permit a disabled person to gain access in and out of the vehicle (SARS, 2010a, p. 8). It is expressly mentioned in the list 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, which was confirmed by external review (Bronkhorst et al., 2011, p. 4).

The parent is of opinion that this expense was 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. The standing frame must be taken along when the family goes on holiday.

By applying the facts of Special Board Decision No. 56 to a 2010 year of assessment, it was proved that in theory the research problem addressed in this article could exist. 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 list; and
- it is uncertain whether the other 13 appear on the 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. Since 12 legitimate expenses do not appear on the list and because it is uncertain whether 13 of them do, it can be concluded that SARS should reconsider the *completeness and clarity* of the list with regard to expenses incurred by parents caring for severely disabled children.

CONCLUSION

As from the 2010 year of assessment, a parent will only be able to deduct 'listed' disability expenses, which have also been *necessarily incurred and paid in consequence of the child's disability*. From this date onwards, a legitimate expense has to appear on the list; else it will not qualify for deduction. The primary objective of the research reported in this article was to evaluate the completeness of the 2010 list of disability expenses, from the perspective of parents caring for their disabled children. The aim was to determine whether there was any expense (even only one) that was *necessarily incurred and paid* by a parent *in consequence of* a child's disability, which was not listed.

In order to determine this, it was necessary first to clarify what *necessarily incurred and paid in consequence of* means. It was established that the expense must be unavoidable in helping the disabled child perform daily activities (that would otherwise not have been possible) taking the specific type of disability of the child into account. It was then proved that, in theory, the research problem addressed in this article could exist. Interviews with 20 parents provided some real-life examples of different expenses *necessarily incurred and paid* by parents during their 2010 year of assessment *in consequence of* their children's specific type of disability. Twelve expenses that do not appear on the list were identified 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, school fees, electronic equipment, service animals, obsessive behaviour, medical supplies and transport. This risk of observer error was limited by making use of an external review process.

Since the interviews revealed that legitimate expenses do not appear on the list, it is proposed that SARS should reconsider the completeness of the list with regard to expenses incurred by parents caring for disabled children. This effectively means that, by introducing the list, SARS added another requirement to be met by parents before disability expenses can be claimed. This was not the intention. These unlisted legitimate expenses will therefore not qualify for 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. Even though, in theory, the list resulted in legitimate expenses not being allowed as a deduction in the 2010 year of assessment, SARS's enforcement of the list was not tested. It could indeed be tested by determining whether or not these expenses were disallowed by SARS on assessment. Furthermore, the *clarity* of the wording of the list also seems to be a problem.

The 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 draft list was open for public comment until 30 September 2011. The findings of this study were submitted to SARS and it was

recommended that the list be expanded to include the type of expenses identified by this study. The same research could be repeated on a representative sample of the population in an attempt to identify more real-life examples for inclusion by SARS in the list. It appears as if the list caters more for disabled taxpayers than for taxpayer-parents caring for disabled children.

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