

Incapacitated Child Tax Credit

Section 465 Taxes Consolidation Act (TCA) 1997

Part 15-01-05

Document last updated August 2019

Section 465(1) TCA 1997 provides for a tax credit of €3,300 in the case of a child who

- a) is under the age of 18 years and is permanently incapacitated by reason of mental or physical infirmity, or
- b) if over the age of 18 years at the commencement of the year
 - is permanently incapacitated by reason of mental or physical infirmity from maintaining himself or herself and had become so permanently incapacitated before he or she had attained the age of 21 years, or
 - had become so permanently incapacitated after attaining the age of 21 years but while he or she had been in receipt of full-time instruction at any university, college, school or other educational establishment.

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

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

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

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

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

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

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

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

Note: ‘Maintaining’, for the purpose of this tax credit, means an ability to support oneself by earning an income from working.

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

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

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

- the severity of the mental or physical condition,
- the extent to which the child has the capacity for independent living,
- in the case of a child under the age of 18,
 - (i) the likelihood that the condition could, by the age of 18, be improved or ameliorated by any treatment, device, medication or therapy,
 - (ii) the extent to which the child, by the age of 18, would have the ability or potential to support himself or herself by earning an income from working,
 - (iii) the extent to which, by the age of 18, the child would have the capacity for independent living.

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

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

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