STATUTORY INSTRUMENTS

1989 No. 2387

INCOME TAX

The Private Medical Insurance (Tax Relief) Regulations 1989

Made - - - -	*18th December 1989*
Laid before the House of Commons - - - -	*19th December 1989*
Coming into force - -	*9th January 1990*

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by sections 54(4) and 57 of the Finance Act 1989 (**1**), hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Private Medical Insurance (Tax Relief) Regulations 1989 and shall come into force on 9th January 1990.

Interpretation

2. In these Regulations unless the context otherwise requires—

"annual claim" and "interim claim" have the meanings given by regulation 6(2) and (3) respectively;

"the Board" means the Commissioners of Inland Revenue;

"contract" means a contract of private medical insurance;

"managing agent" means a person resident in the United Kingdom who is either—

(a) an underwriting agent listed as a managing agent on the register of underwriting agents maintained under byelaws made under the Lloyd's Act 1982(**2**), or

(b) an agent of a qualifying insurer for the purposes of section 55, other than a member of Lloyd's, who carries on the regular agency of the insurer in respect of insurance provided by him and is neither a broker nor a general commission agent receiving remuneration which is not less than that customary in the class of business in question;

"notice" means notice in writing;

"the principal sections" means sections 54 to 56 inclusive of the Finance Act 1989;

"relief at source" shall be construed in accordance with regulation 3(1) ;

(**1**) 1989 c. 26
(**2**) 1982 c. xiv.

"section 54", "section 55" and "section 56" mean sections 54, 55 and 56 respectively of the Finance Act 1989;

"the Taxes Act" means the Income and Corporation Taxes Act 1988 (**3**);

"the Treasury Regulations" means the Private Medical Insurance (Disentitlement to Tax Relief and Approved Benefits) Regulations 1989 (**4**);

"year" means a year beginning with 6th April in any year and ending with 5th April in the following year. Cases and conditions for relief at source

3.—(1) This regulation specifies the cases in which, and the conditions subject to which, relief under subsection (3) of section 54 shall be given at source, that is to say, in accordance with subsections (5) and (6) of that section.

(2) Subject to the conditions specified in paragraph (3), relief shall be given at source in any case where the person to whom a payment under a contract is made in respect of which an individual is entitled to relief under the said subsection (3) is—

(a) a qualifying insurer for the purposes of section 55 by virtue of subsection (8)(a) of that section, or

(b) a managing agent.

(3) The conditions specified in this paragraph are—

(a) that the individual making the payment—

(i) has given notice that he is entitled to relief at source to the insurer or managing agent providing the information, certificate and declaration and undertaking specified in regulation 4, and

(ii) is resident in the United Kingdom at the time of making the payment or is at that time performing duties which are treated by virtue of section 132(4)(a) of the Taxes Act as performed in the United Kingdom, and

(b) that the person to whom the payment is made—

(i) has no reason to believe at the time the payment is made that any of the information contained or declared in the claim is untrue or that any undertaking has been dishonoured,

(ii) has given an undertaking in writing to the Board before any payment is made that he will observe the requirements of these Regulations and of the Treasury Regulations, and (iii) in the event of a failure by him to observe those requirements, has satisfied the Board that he is able and willing to observe them in the future. Notice of entitlement by individuals

4.—(1) A notice of entitlement to relief at source given by an individual shall provide the information specified in paragraph (2) and a certificate and a declaration and undertaking in the terms specified in paragraphs (3) and (4) respectively.

(2) The information specified in this paragraph is—

(a) the full name and permanent address of the individual,

(b) his national insurance number,

(c) where he knows it, his tax office reference,

(d) if he has neither a national insurance number nor a tax office reference but has a national pension number, that number, and

(**3**) 1988 c. 1
(**4**) S.I. 1989/2389

(e) where he is not the insured under the contract, the full name and permanent address of every person insured under it.

(3) The certificate specified in this paragraph is a certificate by the individual that the contract satisfies the requirement of subsection (2) of section 54 as to the person or persons insured.

(4) The declaration and undertaking specified in this paragraph is a declaration and undertaking by the individual that—

(a) to the best of his knowledge and belief all information provided in the notice is true,

(b) he is resident in the United Kingdom at the date of making the claim, or is at that date performing duties which are treated by virtue of section 132(4)(a) of the Taxes Act as performed in the United Kingdom,

(c) no payment made by him under the contract has been or will be made out of resources provided by another person for the purpose of enabling it to be made, and

(d) he is not entitled to claim any relief or deduction in respect of any such payment under any other provision of the Tax Acts.

Refund of payment to individual

5. Where and for whatever reason a person to whom a payment is made in respect of which relief has been given at source makes a refund of that payment to the individual who made it—

(a) the amount of that refund shall not exceed the payment actually made to him by that individual, and

(b) he shall thereupon repay to the Board any amount which he had recovered from the Board on a claim under subsection (6)(b) of section 54 in respect of the amount deducted from that payment.

Claims by insurers and managing agents—introductory

6.—(1) A claim made under subsection (6)(b) of section 54 by a person to whom payments are made for the purpose of recovering amounts from the Board shall be made in accordance with this regulation and regulations 7 and 8.

(2) Subject to paragraph (3) a claim shall be to the Board for a period of a year and is referred to in these Regulations as an "annual claim".

(3) A claim may also be made in the manner prescribed by regulation 7 for a period shorter than a year and is referred to in these Regulations as an "interim claim".

(4) A claim shall be in such form and contain such particulars as the Board may prescribe, shall include a declaration that the records required to be kept by regulation 10(2) are being kept and shall be signed by the person making it or, where that person is not an individual, by an authorised officer of that person; and forms prescribed for annual claims may require a report to be given by an independent person qualified for appointment as auditor of a company.

(5) The Board shall not be under an obligation to make payment of any amount claimed earlier than on the 21st day of the month following that in which the claim is received. Interim claims

7.—(1) An interim claim may be made only for a period of a month (or a number of months not exceeding six) beginning on the 6th day of a month and ending on the 5th day of the relevant following month.

(2) No claim may be made for the month ending 5th October or any subsequent month until the annual return referred to in regulation 8 has been duly made for the preceding year and received by the Board.

(3) If the Board are satisfied that the amount claimed was deductible in the period for which the claim is made they shall pay the amount to the claimant and, if they are not so satisfied, they shall pay any smaller amount which they are satisfied was deductible.

(4) Where the amount paid by the Board in accordance with paragraph (3) exceeds the amount actually deducted for the period of the claim, the claimant shall bring the amount of the excess into account in the interim claim next made by him after the actual amount has been ascertained and, if that amount exceeds the amount deducted in respect of the period for which that interim claim is made—

(a) the claimant shall repay the amount of the excess to the Board with the claim, and

(b) if he fails to do so, that amount shall be immediately recoverable by the Board in the same manner as tax charged by an assessment on the claimant which has become final and conclusive. Annual claims and returns

8.—(1) At the same time as making an annual claim for a year, and within six months after the end of that year, a person to whom payments are made shall make a return on a form supplied by the Board for the purpose of all payments made to him (and not repaid by him) in that year and of the amounts deductible from those payments in accordance with subsection (5) of section 54.

(2) Where the aggregate of the amounts paid by the Board in respect of interim claims for the year exceeds the amount recoverable from the Board shown on the annual claim, the claimant shall repay the amount of the excess to the Board with the claim.

(3) If a person to whom payments are made fails to make a return and annual claim within the time limited by this regulation, the Board shall issue a notice to him showing the aggregate of the payments made to him in respect of interim claims for the year and stating that the Board are not satisfied that the amount due to him for that year exceeds the lower amount stated in the notice.

(4) If a return and annual claim for the year are not delivered to the Board within14 days after the issue of a notice under paragraph (3) the amount of the difference between the aggregate and the lower amount stated in the notice shall be immediately recoverable by the Board from the person to whom the notice was issued in the same manner as tax charged by an assessment on him which has become final and conclusive.

(5) No payment or repayment made or other thing done on or in relation to an interim claim or a notice under paragraph (3) shall prejudice the decision on an annual claim.

(6) Where a return and an annual claim have been made and the person who made them subsequently discovers that an error or mistake has been made in the return or claim, he may make a supplementary return or annual claim, as the case may require, at any time within six years after the end of the year for which it is made. Provision of certificates by insurers

9.—(1) An individual who has obtained relief at source in respect of payments made by him under a contract in a year may, at any time after 56 days have elapsed following the end of that year, request a certificate from the insurer stating the matters specified in paragraph (2).

(2) The matters specified in this paragraph are—

(a) the year to which the certificate relates;

(b) the amount of the premium under the contract paid in that year and the aggregate of the amounts deductible from that premium;

(c) the full name, address and national insurance number of the individual;

(d) the full name and address of every person insured under the contract;

(e) the date on which the contract was certified by the Board under section 56 or on which a standard form to which it conforms was certified by the Board as a standard form of eligible contract.

(3) The insurer shall provide a certificate requested under this regulation within 30 days of the request.

(4) Where the insurer is a member of a syndicate of underwriting members of Lloyd's formed for an underwriting year, he may provide the certificate through his managing agent.

Inspection of records kept by insurers

10.—(1) The Board may by notice require any person who provides, or who has at any time provided, insurance under contracts of private medical insurance within 14 days of the notice to make available for inspection by an officer of the Board authorised for that purpose all documents (including books and other records) in his possession or under his control containing information relating to any contract of private medical insurance under which he has provided, or is providing, insurance.

(2) Persons referred to in paragraph (1) shall at all times keep sufficient records in respect of contracts of private medical insurance under which they have provided, or are providing, insurance to enable the requirements of this regulation to be satisfied and in particular, but without prejudice to the generality of the foregoing, every notice of entitlement to relief at source given to such persons by individuals under regulation 3(3) shall be preserved by such persons so as to be available for inspection under this regulation for a period of three years after the termination of the insurance or contract to which it relates.

Provision of information to the Board

11. The Board may by notice require any person who provides, or has provided, insurance under contracts of private medical insurance, or any managing agent of such a person, to furnish within 14 days of the notice such information about any contract of private medical insurance provided by him, or by the insurer or the syndicate of underwriting members of Lloyd's formed for an underwriting year of which he is an agent, as may reasonably be required by them for the purposes of these Regulations.

Qualifying insurers—approval for the purposes of section 55

12.—(1) This regulation specifies the circumstances (in this regulation referred to as "the qualifying circumstances") in which a person may be approved by the Board as a qualifying insurer for the purposes of section 55.

(2) The qualifying circumstances are that—

(a) the person must make written application to the Board for approval in a form prescribed by the Board;

(b) in that application the person must—

(i) declare that it has been authorised by the Secretary of State to carry on in the United Kingdom the class of insurance business numbered 2 in Part I of Schedule 2 to the Insurance Companies Act 1982 (**5**); or

(ii) declare that it is a friendly society registered under the Friendly Societies Act 1974(**6**)or the Friendly Societies Act (Northern Ireland) 1970(**7**) which is entitled to provide insurance under contracts of private medical insurance; or

(**5**) 1982 c. 50
(**6**) 1974 c. 46
(**7**) 1970 c. 31 (N.I.).

(iii) declare that he is a member of a syndicate of underwriting members of Lloyd's formed for an underwriting year providing insurance under contracts of private medical insurance; or

(iv) declare that he is an insurer not carrying on business in the United Kingdom but carrying on business in another member State, that he is either a national of a member State or a company or partnership formed under the law of any part of the United Kingdom or another member State, which has its registered office, central administration or principal place of business in a member State, and that he is authorised to provide insurance under contracts of private medical insurance under the law in force in the member State of which he is a national, or in which it has its registered office, central administration or principal place of business, as the case may be; and

(v) undertake that he will notify the Board if any of the matters declared by him ceases to correspond with the actual circumstances;

(c) the Board are satisfied that the person will be able to observe the requirements of these Regulations as to the repayment of amounts recovered from the Board which are found not to be due and as to the keeping of records and the provision of information to the Board.

(3) If, following an application by a person for approval by the Board as a qualifying insurer for the purposes of section 55, the Board determine that they do not approve that person, they shall give him notice of their determination specifying the reason for their refusal to approve him.

(4) The terms of the Board's approval of a qualifying insurer for the purposes of section 55 may include conditions designed to ensure that the provisions of these Regulations and of the Treasury Regulations are satisfied.

Qualifying insurers—withdrawal of approval by Board

13.—(1) This regulation specifies the circumstances (in this regulation referred to as "the disqualifying circumstances") in which the Board may by notice withdraw their approval of a qualifying insurer for the purposes of section 55.

(2) The disqualifying circumstances are that the Board have reason to believe—

(a) that any provision of the principal sections, these Regulations, or of the Treasury Regulations, is not, or at any time has not been, satisfied in respect of a contract of private medical insurance under which insurance is provided by him; or

(b) that a person to whom they have given their approval for the purposes of section 55 is not a qualifying insurer.

(3) A notice under paragraph (1) shall specify—

(a) the date from which the Board's approval is withdrawn, and

(b) the disqualifying circumstances.

Qualifying insurers—appeals against Board's failure to approve and withdrawal of approval

14.—(1) A person to whom notice of the Board's determination under regulation 12(3), or of withdrawal of approval under regulation 13(1), has been given may appeal against the determination or withdrawal, as the case may be, by notice given to the Board within 30 days after the date of the notice.

(2) The appeal shall be to the Special Commissioners.

(3) The like provisions as are contained in Part V of the Taxes Management Act 1970 shall apply to an appeal and the Special Commissioners shall on appeal to them confirm the notice unless they are satisfied that the notice ought to be quashed.

Certification of standard forms of contract

15.—(1) The Board shall certify a form as a standard form of eligible contract if it satisfies the conditions set out in paragraph (2).

(2) The conditions referred to in paragraph (1) are that—

(a) a contract entered into in that form would provide indemnity in respect of all or any of the costs of all or any of the like treatments, medical services and other matters as are for the time being specified in the Treasury Regulations or, in addition to providing indemnity of that description, provides cash benefits falling within the like rules as are for the time being specified in those Regulations;

(b) a contract entered into in that form would not confer any right other than a like right as is mentioned in sub-paragraph (a) or is for the time being specified in the Treasury Regulations;

(c) tables by means of which the premium can be calculated are attached to that form which in the Board's opinion show that the premium under a contract entered into in that form will be reasonable;

(d) a contract entered into in that form would satisfy the like requirements as are for the time being otherwise specified in the Treasury Regulations.

(3) The Board shall also certify a variation from a form certified as a standard form of eligible contract as a standard variation if the inclusion of that variation would not result in a contract entered into in that form failing to satisfy the conditions set out in paragraph (2).

(4) The certification of a form as a standard form of eligible contract by the Board under this regulation shall cease to have effect if the form is varied otherwise than in accordance with a standard variation certified by the Board; but this is without prejudice to the application of the preceding provisions of this regulation to the certification of the form as varied as a new standard form of eligible contract or of the variation as a standard variation from the form as certified.

(5) Where the Board refuse to certify a form or a variation as a standard form of standard variation under this regulation, an appeal may be made to the Special Commissioners by the person who has submitted the form for certification.

(6) In this regulation the reference to a premium, in relation to a contract of insurance, is to any amount payable under the contract to the insurer.

Form and manner of certification under section 56 or regulation 15 and of revocation of such certification

16.—(1) An application to the Board for the certification of a contract under section 56, or of a standard form under regulation 15, shall be accompanied by all documents constituting that contract, or by drafts of all the documents which would constitute a contract entered into in that form, and by any other document relevant to the question whether that contract or standard form may be certified by the Board and shall contain a declaration by the applicant that all such documents accompany the application.

(2) If it comes to the notice of the Board that any document or information which is relevant to the certification of a contract or standard form has been withheld, they shall be entitled to treat that certification as having ceased to have effect.

Appeals against refusal to certify and revocation of certification

17.—(1) A person who appeals to the Special Commissioners against the Board's refusal to certify a contract under section 56, or a standard form or standard variation under regulation 15, or against the revocation by the Board of a certification under section 56, shall do so within 30 days after notice of the Board's refusal or revocation, as the case may be, has been given to him.

(2) The like provisions as are contained in Part V of the Taxes Management Act 1970 shall apply to an appeal and the Special Commissioners shall on appeal to them confirm the refusal or revocation unless they are satisfied that the refusal or revocation ought to be quashed.

L J H Beighton
S C T Matheson

18th December 1989 — Two of the Commissioners of Inland Revenue

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, made under sections 54(4) and 57 of the Finance Act 1989 ("the 1989 Act"), specify the cases in which, and the conditions subject to which, tax relief for payments of premiums under contracts of private medical insurance is to be given by deduction from such payments of amounts equal to income tax at the basic rate on them ("relief at source"). They provide the machinery by which the payees of premiums from which amounts have been deducted can recover those amounts from the Board by making claims and may be required by the persons paying such premiums to provide certificates of the premiums paid and amounts deducted from them.The Regulations also provide for the inspection of records kept by insurers under contracts of private medical insurance, for the provision of information by insurers and their managing agents, for the approval and withdrawal of approval of insurers by the Board and for associated rights of appeal, for the conditions for certification by the Board of standard forms of contracts for private medical insurance, and standard variations from those forms, and for the procedure for certification of contracts and standard forms and the exercise of rights of appeal against the Board's refusal to certify or revocation of certification.

Regulation 1 provides for citation and commencement.

Regulation 2 contains definitions.

Regulation 3 specifies the cases in which, and the conditions subject to which, relief is to be given at source.

Regulation 4 specifies the contents of a notice of entitlement to relief at source given by an individual under regulation 3.

Regulation 5 provides that refunds of payments of premiums on which relief has been given at source are to be of the net amount only and that any amounts recovered from the Board in respect of such payments are to be repaid.

Regulation 6 provides that a person to whom payments of premiums are made from which amounts have been deducted under the scheme for relief at source may make interim claims as well as an annual claim to recover those amounts from the Board.

Regulation 7 provides for interim claims.

Regulation 8 provides for an annual return to be made at the same time as the annual claim and within six months after the end of the tax year to which it relates and provides for the recovery by the Board of excessive repayments.

Regulation 9 provides for a certificate to be given by an insurer at the request of a person who has obtained relief at source on payments of premium made by him in a year and specifies the contents of such a certificate.

Regulation 10 provides for the inspection by the Board of records kept by insurers and regulation 11 specifies the information to be provided to the Board by insurers and their managing agents.

Regulation 12 specifies the circumstances in which the Board may approve a person as a qualifying insurer under section 55 of the 1989 Act and regulation 13 specifies the circumstances in which such approval may be withdrawn.

Regulation 14 provides for a right of appeal against the Board's refusal to certify a person as a qualifying insurer and against withdrawal of that approval.

Regulation 15 provides for the certification by the Board of standard forms of contract of private medical insurance and of standard variations from approved standard forms and for a right of appeal against the Board's refusal to certify a standard form or variation.

Regulation 16 specifies the form and manner of certification of contracts, standard forms and standard variations and regulation 17 makes provision with respect to the rights to appeal against the Board's decision to refuse to certify a contract, or a standard form or variation, or to revoke the certification of a contract.