



# Finance Act 1989

## 1989 CHAPTER 26

### PART II

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER I

#### GENERAL

#### *Medical insurance*

#### [<sup>F1</sup>54 Relief.

- (1) This section applies where—
  - (a) on or after 6th April 1990 an individual makes a payment in respect of a premium under a contract of private medical insurance (whenever issued),
  - (b) the contract meets the requirement in subsection (2) below as to the person or persons insured,
  - (c) at the time the payment is made the contract is an eligible contract,
  - (d) the individual making the payment does not make it out of resources provided by another person for the purpose of enabling it to be made, and
  - (e) the individual making the payment is not entitled to claim any relief or deduction in respect of it under any other provision of the Tax Acts.
- (2) The requirement mentioned in subsection (1)(b) above is that the contract insures—
  - (a) an individual who at the time the payment is made is aged 60 or over and resident in the United Kingdom,
  - (b) individuals each of whom at that time is aged 60 or over and resident in the United Kingdom, or
  - (c) two individuals who are married to each other at that time, at least one of whom is aged 60 or over at that time, and each of whom is resident in the United Kingdom at that time.

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Cross Heading: Medical insurance. (See end of Document for details)*

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- [ In a case where—
- <sup>F2</sup>(2A) (a) a payment is made in respect of a premium under a contract at a time when the contract meets the requirement in subsection (2) above by virtue of paragraph (c) of that subsection, and
- (b) a payment is made under the same contract at a time after one of the individuals has died and when the contract does not (apart from this subsection) meet the requirement in subsection (2) above by virtue only of the fact that the surviving spouse is not aged 60 or over at the time,
- for the purposes of subsection (2) above in its application to the contract the surviving spouse shall be deemed to be aged 60 or over at the time mentioned in paragraph (b) above.]
- (3) If the payment is made by an individual who at the time it is made is resident in the United Kingdom (whether or not he is the individual or one of the individuals insured by the contract) [<sup>F3</sup>the individual shall be entitled to relief under this subsection in respect of the payment; and (except where subsections (4) to (6) below apply) relief under this subsection shall be given—
- (a) in accordance with subsections (3A) to (3C) below, and
- (b) only on a claim made for the purpose.]
- [ Where an individual is entitled to relief under subsection (3) above in respect of one
- <sup>F4</sup>(3A) or more payments made in a given year of assessment, the amount of his liability for that year of assessment to income tax on his total income shall be the amount to which he would be liable apart from this section less whichever is the smaller of—
- (a) the amount found under subsection (3B) below, and
- (b) the amount which reduces his liability to nil.
- (3B) The amount referred to in subsection (3A)(a) above is an amount found by—
- (a) taking the amount of the payment referred to in subsection (3A) above or (as the case may be) the aggregate amount of the payments there referred to, and
- (b) finding an amount equal to tax on the amount taken under paragraph (a) above at the basic rate for the year of assessment concerned.
- (3C) In determining for the purposes of subsection (3A) above the amount of incomers on whom he would be liable apart from this section, no account shall be taken of—
- (a) any income tax reduction under Chapter I of Part VII of the Taxes Act 1988 or under section 347B of that Act;
- (b) any income tax reduction under section 353(1A) of the Taxes Act 1988;
- (c) any relief by way of a reduction of liability to tax which is given in accordance with any arrangements having effect by virtue of section 788 of the Taxes Act 1988 or by way of a credit under section 790(1) of that Act;
- (d) any tax at the basic rate on so much of that person's income as is income on which he is entitled to charge against any other person or to deduct, retain or satisfy out of any payment.]
- (4) In such cases and subject to such conditions as the Board may specify in regulations, relief under subsection (3) above shall be given in accordance with subsections (5) and (6) below.
- (5) An individual who is entitled to such relief in respect of a payment may deduct and retain out of it an amount equal to income tax on it at the basic rate for the year of assessment in which it is made.

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- (6) The person to whom the payment is made—
- (a) shall accept the amount paid after deduction in discharge of the individual's liability to the same extent as if the deduction had not been made, and
  - (b) may, on making a claim [<sup>F5</sup>in accordance with regulations], recover from the Board an amount equal to the amount deducted.
- (7) The Treasury may make regulations providing that in circumstances prescribed in the regulations—
- (a) an individual who has made a payment in respect of a premium under a contract of private medical insurance shall cease to be and be treated as not having been entitled to relief under subsection (3) above; and
  - (b) he or the person to whom the payment was made (depending on the terms of the regulations) shall account to the Board for tax from which relief has been given on the basis that the individual was so entitled.
- (8) Regulations under subsection (7) above may include provision adapting or modifying the effect of any enactment relating to income tax in order to secure the performance of any obligation imposed under paragraph (b) of that subsection.
- (9) In this section—
- (a) references to a premium, in relation to a contract of insurance, are to any amount payable under the contract to the insurer, and
  - (b) references to an individual who is resident in the United Kingdom at anytime include references to an individual who is at that time performing duties which are treated by virtue of section 132(4)(a) of the Taxes Act 1988 as performed in the United Kingdom.]

#### Textual Amendments

- F1** Ss. 54-57 repealed (31.1.1997 with effect as mentioned in Sch. 8 Pt. II(2), note of the amending Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(2)** (with s. 3(3))
- F2** S. 54(2A) inserted (3.5.1994 with effect as mentioned in **Sch. 10 para. 4(2)** of the amending Act) by 1994 c. 9, s. 83, **Sch. 10 para. 4(1)**
- F3** Words and paras. (a)(b) substituted for words in s. 54(3) (3.5.1994 with effect in relation to payments on or after 6.4.1994) by 1994 c. 9, s. 83, **Sch. 10 para. 2(2)(4)**
- F4** S. 54(3A)-(3C) inserted (3.5.1994 with effect in relation to payments on or after 6.4.1994) by 1994 c. 9, s. 83, **Sch. 10 para. 2(3)(4)**
- F5** Words in s. 54(6)(b) inserted (29.4.1996) by 1996 c. 8, s. 129(2)

#### Modifications etc. (not altering text)

- C1** S. 54 restricted (31.7.1997 with effect for the year 1997-1998 and subsequent years of assessment) by 1997 c. 58, s. 17(1)-(5) (with s. 3(3))
- C2** For regulations see S.I. 1989/2387 and S.I. 1989/2389 (in Part III Vol. 5 under "Private medical insurance")

#### [<sup>F6</sup>55 Eligible contracts.

- (1) This section has effect to determine whether a contract is at a particular time (the relevant time) an eligible contract for the purposes of section 54 above.
- (2) A contract is an eligible contract at the relevant time if—

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- (a) it was entered into by an insurer who at the time it was entered into was a qualifying insurer and was approved by the Board for the purposes of this section,
  - (b) the period of insurance under the contract does not exceed one year(commencing with the date it was entered into),
  - [ at the relevant time the contract satisfies the conditions set out in
  - <sup>F7</sup>(ba) subsection (2A) below,
  - (bb) the contract is not one in the case of which subsection (2D) below applies,]
  - (c) the contract is not connected with any other contract at the relevant time and has not been connected with any other contract at any time since it was entered into, [<sup>F8</sup>and]
  - (d) no benefit has been provided by virtue of the contract other than an approved benefit, [<sup>F9</sup>and
  - (e) the contract meets one or more of the three conditions set out below.]
- [ The conditions referred to in subsection (2)(ba) above are that—
- <sup>F10</sup>(2A) (a) the contract either provides indemnity in respect of all or any of the costs of all or any of the treatments, medical services and other matters for the time being specified in regulations made by the Treasury, or in addition to providing indemnity of that description provides cash benefits falling within rules for the time being so specified,
- (b) the contract does not confer any right other than such a right as is mentioned in paragraph (a) above or is for the time being specified in regulations made by the Treasury,
- (c) the premium under the contract is reasonable, and
- (d) the contract satisfies such other requirements as are for the time being specified in regulations made by the Treasury.
- (2B) In a case where—
- (a) at the relevant time the contract confers a material right, or more than one such right, but
  - (b) the total cost to the insurer of providing benefits in pursuance of the material right or (as the case may be) in pursuance of all the material rights would not exceed the prescribed sum,
- the contract shall not thereby be regarded as failing to satisfy at the relevant time the condition set out in subsection (2A)(b) above.
- (2C) For the purposes of subsection (2B) above a material right is a right which—
- (a) is not a right such as is mentioned in subsection (2A)(a) above or such as is for the time being specified in regulations made under subsection (2A)(b) above, and
  - (b) is not a right to a cash benefit.
- (2D) This subsection applies in the case of a contract (the main contract) if—
- (a) at least one other contract is entered into which is a contract (a collateral contract) under which a benefit is provided in consideration of the insured's entering into the main contract, and
  - (b) the cost to the insurer of fulfilling his obligations under the collateral contract (or, if there is more than one collateral contract, of fulfilling his obligations under all of them) exceeds the prescribed sum.]

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- [ The first condition is that the contract is certified by the Board under section 56 below <sup>F11</sup>(3) at the relevant time.
- <sup>F11</sup>(4) The second condition is that, at the time the contract was entered into, it conformed with a standard form certified by the Board as a standard form of eligible contract.
- <sup>F11</sup>(5) The third condition is that, at the time the contract was entered into, it conformed with a form varying from a standard form so certified in no other respect than by making additions—
- (a) which were (at the time the contract was entered into) certified by the Board as compatible with an eligible contract when made to that standard form, and
  - (b) which (at that time) satisfied any conditions subject to which the additions were so certified.
- <sup>F11</sup>(6) Where a contract is varied, and the relevant time falls after the time the variation takes effect, subsections (1) to (5) above shall have effect as if “entered into” read “varied” in each place where it occurs in subsections (4) and (5) above.]
- (7) For the purposes of this section a contract is connected with another contract at any time if—
- (a) they are simultaneously in force at that time,
  - (b) either of them was entered into with reference to the other, or with a view to enabling the other to be entered into on particular terms, or with a view to facilitating the other being entered into on particular terms, and
  - (c) the terms on which either of them was entered into would have been significantly less favourable to the insured if the other had not been entered into.
- (8) For the purposes of this section each of the following is a qualifying insurer—
- (a) an insurer lawfully carrying on in the United Kingdom business of any of the classes specified in Part I of Schedule 2 to the <sup>M1</sup>Insurance Companies Act 1982;
  - (b) an insurer not carrying on business in the United Kingdom but carrying on business in another member State and being 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 and having its registered office, central administration or principal place of business in a member State.
- (9) For the purposes of this section a benefit is an approved benefit if it is provided in pursuance of a right of a description
- <sup>F12</sup>(a) [ mentioned in subsection (2A)(a) above, or
  - (b) for the time being specified in regulations made under subsection (2A)(b) above.]
- [ For the purposes of this section a benefit is also an approved benefit if it is not a cash <sup>F13</sup>(10) benefit and—
- (a) it is a single benefit provided otherwise than as mentioned in subsection (9) above and the cost to the insurer of providing it does not exceed the prescribed sum, or
  - (b) it is one of a number of benefits provided otherwise than as mentioned in subsection (9) above and the total cost to the insurer of providing the benefits does not exceed the prescribed sum.

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- (11) In this section the reference to a premium, in relation to a contract of insurance, is to any amount payable under the contract to the insurer.
- (12) For the purposes of this section the prescribed sum is £30.
- (13) The Treasury may by order substitute for the sum for the time being specified in subsection (12) above such sum as may be specified in the order; and any such substitution shall have effect in relation to cases where the relevant time falls on or after such date as is specified in the order.]]

#### Textual Amendments

- F6** Ss. 54-57 repealed (31.1.1997 with effect as mentioned in Sch. 8 Pt. II(2), note of the amending Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(2)** (with s. 3(3))
- F7** S. 55(2)(ba)(bb) inserted (3.5.1994 with effect as mentioned in **Sch. 10 para. 5(8)** of the amending Act) by 1994 c. 9, s. 83, **Sch. 10 para. 5(2)**
- F8** Word in s. 55(2)(c) inserted (3.5.1994 with effect as mentioned in **Sch. 10 para. 5(8)** of the amending Act) by 1994 c. 9, s. 83, **Sch. 10 para. 5(3)(a)**
- F9** S. 55(2)(e) and the word “and” immediately preceding it repealed (3.5.1994 with effect as mentioned in **Sch. 10 para. 5(8)** of the amending Act) by 1994 c. 9, ss. 83, 258, **Sch. 10 para. 5(3)(b)**, **Sch. 26 Pt. V(3)**, Note 2
- F10** S. 55(2A)-(2D) inserted (3.5.1994 with effect as mentioned in **Sch. 10 para. 5(8)** of the amending Act) by 1994 c. 9, s. 83, **Sch. 10 para. 5(4)**
- F11** S. 55(3)-(6) repealed (3.5.1994 with effect as mentioned in **Sch. 10 para. 5(8)** of the amending Act) by 1994 c. 9, ss. 83, 258, **Sch. 10 para. 5(5)**, **Sch. 26 Pt. V(3)**, Note 2
- F12** Paras. (a)(b) substituted for words in s. 55(9) (3.5.1994 with effect as mentioned in **Sch. 10 para. 5(8)** of the amending Act) by 1994 c. 9, s. 83, **Sch. 10 para. 5(6)**
- F13** S. 55(10)-(13) inserted (3.5.1994 with effect as mentioned in **Sch. 10 para. 5(8)** of the amending Act) by 1994 c. 9, s. 83, **Sch. 10 para. 5(7)**

#### Marginal Citations

- M1** 1982 c.50.

#### [<sup>F14</sup>56 Certification of contracts.

- (1) The Board shall certify a contract under this section if it satisfies the conditions set out in subsection (3) below; and the certification shall be expressed to take effect from the time the conditions are satisfied, and shall take effect accordingly.
- (2) The Board shall revoke a certification of a contract under this section if it comes to their notice that the contract has ceased to satisfy the conditions set out in subsection (3) below; and the revocation shall be expressed to take effect from the time the conditions ceased to be satisfied, and shall take effect accordingly.
- (3) The conditions referred to above are that—
- (a) the contract either provides indemnity in respect of all or any of the costs of all or any of the treatments, medical services and other matters for the time being specified in regulations made by the Treasury, or in addition to providing indemnity of that description provides cash benefits falling within rules for the time being so specified,

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- (b) the contract does not confer any right other than such a right as is mentioned in paragraph (a) above or is for the time being specified in regulations made by the Treasury,
  - (c) the premium under the contract is in the Board's opinion reasonable, and
  - (d) the contract satisfies such other requirements as are for the time being specified in regulations made by the Treasury.
- (4) The certification of a contract by the Board under this section shall cease to have effect if the contract is varied; but this is without prejudice to the application of the preceding provisions of this section to the contract as varied.
- (5) Where the Board refuse to certify a contract under this section, or they revoke a certification, an appeal may be made to the Special Commissioners by—
- (a) the insurer, or
  - (b) any person who (if the policy were certified) would be entitled to relief under section 54 above.
- (6) Where a contract is certified under this section, or a certification is revoked or otherwise ceases to have effect, any adjustments resulting from the certification or from its revocation or ceasing to have effect shall be made.
- (7) Subsection (6) above applies where a certification or revocation takes place on appeal as it applies in the case of any other certification or revocation.
- (8) In this section the reference to a premium, in relation to a contract of insurance, is to any amount payable under the contract to the insurer.]

**Textual Amendments**

**F14** Ss. 54-57 repealed (31.1.1997 with effect as mentioned in Sch. 8 Pt. II(2), note of the amending Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(2)** (with s. 3(3))

**Modifications etc. (not altering text)**

**C3** For regulations see S.I. 1989/2389 (in Part III Vol. 5 under "Private medical insurance")

[<sup>F15</sup>57 **Medical insurance: supplementary.**

- (1) The Board may by regulations—
- (a) provide that a claim under section 54(3) or (6)(b) above shall be made in such form and manner, shall be made at such time, and shall be accompanied by such documents, as may be prescribed;
  - <sup>F16</sup>(aa) [ make provision for and with respect to appeals against a decision of an officer of the Board or the Board with respect to a claim under section 54(6)(b) above;]
  - (b) make provision, in relation to payments in respect of which a person is entitled to relief under section 54 above, for the giving by insurers in such circumstances as may be prescribed of certificates of payment in such form as may be prescribed to such persons as may be prescribed;
  - (c) provide that a person who provides (or has at any time provided) insurance under contracts of private medical insurance shall comply with any notice which is served on him by the Board and which requires him within a

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- prescribed period to make available for the Board's inspection documents (of a prescribed kind) relating to such contracts;
- (d) provide that persons of such a description as may be prescribed shall, within a prescribed period of being required to do so by the Board, furnish to the Board information (of a prescribed kind) about contracts of private medical insurance;
  - (e) make provision with respect to the approval of insurers for the purposes of section 55 above and the withdrawal of approval for the purposes of that section;
  - (f) make provision for and with respect to appeals against decisions of the Board with respect to the giving or withdrawal of approval of insurers for the purposes of section 55 above;
  - (g) make provision with respect to the certification by the Board of standard forms of eligible contract and variations from standard forms of eligible contract certified by them;
  - (h) make provision for and with respect to appeals against decisions of the Board with respect to the certification of standard forms of eligible contractor variations from standard forms of eligible contract certified by them;
  - (i) provide that certification, or the revocation of a certification, under section 56 above shall be carried out in such form and manner as may be prescribed;
  - (j) make provision with respect to appeals against decisions of the Board with respect to certification or the revocation of certification under section 56 above;
  - (k) make provision generally as to administration in connection with sections 54 to 56 above.

<sup>F17</sup>(2) .....

- (3) The following provisions of the Taxes Management Act 1970, namely—
- <sup>F18</sup>(a) [ section 29(1)(c) (excessive relief) as it has effect apart from section 29(2) to (10) of that Act;]
  - (b) section 30 (tax repaid in error etc.) [<sup>F19</sup>apart from subsection (1B)],
  - (c) [<sup>F20</sup>section 86] (interest), and
  - (d) section 95 (incorrect return or accounts),

[<sup>F21</sup>shall apply in relation to an amount which is paid to any person by the Board as an amount recoverable by virtue of section 54(6)(b) above but to which that person is not entitled as if it were income tax which ought not to have been repaid and, where that amount was claimed by that person, as if it had been repaid as respects a chargeable period as a relief which was not due.]

<sup>F22</sup>(3A) [ In the application of section 86 of the Taxes Management Act 1970 by virtue of subsection (3) above in relation to sums due and payable by virtue of an assessment made under section 29(1)(c) or 30 of that Act, as applied by that subsection, the relevant date—

- (a) in a case where the person falling within section 54(6) above has made any interim claim, within the meaning of regulations made under subsection (1) and section 54(4) above, as respects some part of the year of assessment for which the assessment is made, is 1st January in that year of assessment; and
- (b) in any other case, is the later of the following dates, that is to say—
  - (i) 1st January in the year of assessment for which the assessment is made; or



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- (ii) the date of the making of the payment by the Board which gives rise to the assessment.]
- (4) In sections <sup>F23</sup> . . . 257D(8) and 265(3) of the Taxes Act 1988 after paragraph (c) there shall be inserted
- (d) on account of any payments to which section 54(5) of the Finance Act 1989 applies”.
- (5) In subsection (1) above—
- “eligible contract” has the meaning given by section 55 above, and
- “prescribed” means prescribed by or, in relation to form, under the regulations.]

#### Textual Amendments

- F15** Ss. 54-57 repealed (31.1.1997 with effect as mentioned in Sch. 8 Pt. II(2), note of the amending Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(2)** (with s. 3(3))
- F16** S. 57(1)(aa) inserted (29.4.1996) by 1996 c. 8, s. 129(3)
- F17** S. 57(2) omitted (13.8.2009) by virtue of [The Finance Act 2009, Schedule 47 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2035\)](#), art. 1, **Sch. para. 60(c)**
- F18** S. 57(3)(a) substituted (29.4.1996 with effect as mentioned in [Sch. 18 para. 17](#) of the amending Act) by 1996 c. 8, s. 132, **Sch. 18 para. 12(2)(a)**
- F19** Words in s. 57(3)(b) inserted (29.4.1996 with effect as mentioned in [Sch. 18 para. 17](#) of the amending Act) by 1996 c. 8, s. 132, **Sch. 18 para. 12(2)(b)**
- F20** Words in s. 57(3)(c) substituted (29.4.1996 with effect as mentioned in [Sch. 18 para. 17](#) of the amending Act) by 1996 c. 8, s. 132, **Sch. 18 para. 12(2)(c)**
- F21** Words in s. 57(3) substituted (29.4.1996 with effect as mentioned in [Sch. 18 para. 17](#) of the amending Act) by 1996 c. 8, s. 132, **Sch. 18 para. 12(2)(d)**
- F22** S. 57(3A) inserted (29.4.1996 with effect as mentioned in [Sch. 18 para. 17](#) of the amending Act) by 1996 c. 8, s. 132, **Sch. 18 para. 12(3)**
- F23** Words in s. 57(4) repealed (16.7.1992) by virtue of [Finance \(No. 2\) Act 1992 \(c. 48\)](#), ss. 20, 82, [Sch. 5 para. 10](#), **Sch. 18 Pt. VII(1)**

#### Modifications etc. (not altering text)

- C4** See [S.I. 1989/2387](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 1989, Cross Heading:  
Medical insurance.