
STATUTORY INSTRUMENTS

1989 No. 2389

INCOME TAX

The Private Medical Insurance (Disentitlement to Tax Relief and Approved Benefits) Regulations 1989

Made - - - - - *19th December 1989*

Laid before the House of Commons *19th December 1989*

Coming into force - - - *9th January 1990*

The Treasury, in exercise of the powers conferred on them by sections 54(7) and (8) and 56(3) of the Finance Act 1989(a), hereby make the following Regulations:

PART I

INTRODUCTORY

Citation and commencement

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

Interpretation

2. In these Regulations unless the context otherwise requires—

“the Board” means the Commissioners of Inland Revenue;

“contract” means a contract of private medical insurance;

“general medical services” means personal medical services provided for persons in a particular locality;

“health service hospital” means in Great Britain a hospital vested in the Secretary of State for the purposes of his functions under the National Health Service Act 1977(b) or the National Health Service (Scotland) Act 1978(c) and in Northern Ireland a hospital vested in the Department of Health and Social Services for Northern Ireland for the purposes of its functions under the Health and Personal Social Services (Northern Ireland) Order 1972(d);

“hospital” has the meanings given by section 128(1) of the National Health Service Act 1977, section 108(1) of the National Health Service (Scotland) Act 1978 and

(a) 1989 c.26.

(b) 1977 c.49.

(c) 1978 c.29.

(d) S.I. 1972/1265 (N.I. 14).

Article 2(2) of the Health and Personal Social Services (Northern Ireland) Order 1972;

“indemnity period” means the period, not exceeding one year, for which indemnity is provided under a contract;

“registered dental practitioner” means a person registered in the dentists register under the Dentists Act 1984(a);

“registered medical practitioner” means a registered medical practitioner within the meaning of Schedule 1 to the Interpretation Act 1978(b);

“section 54” and “section 56” mean sections 54 and 56 respectively of the Finance Act 1989.

PART II

DISENTITLEMENT TO TAX RELIEF

Circumstances of disentitlement

3.—(1) In the circumstances prescribed by paragraph (2) an individual who has made a payment in respect of a premium under a contract shall cease to be and be treated as not having been entitled to relief under subsection (3) of section 54 in respect of that payment.

(2) The circumstances prescribed by this paragraph are circumstances in which—

- (a) at any time after the payment is made the contract is not an eligible contract for the purposes of section 54; or
- (b) the payment is refunded to the individual by the person to whom it was made.

Recovery of tax from payee of premium

4.—(1) In the circumstances prescribed by paragraph (2) the person to whom a payment in respect of a premium under a contract was made by an individual, who by virtue of regulation 3 has ceased to be and is treated as not having been entitled to relief in respect of that payment, shall account to the Board for tax from which relief has been given on the basis that the individual was so entitled.

(2) The circumstances prescribed by this paragraph are circumstances in which—

- (a) the person to whom the payment was made has recovered from the Board an amount equal to any amount deducted and retained by the individual from that payment in accordance with subsection (5) of section 54; and
- (b) that amount has not been repaid to the Board.

Adaptation of section 30 of the Taxes Management Act 1970

5.—(1) In order to secure the performance of the obligation imposed by regulation 4, section 30 of the Taxes Management Act 1970(c) shall be adapted so that it applies to the tax for which a person to whom a payment has been made is to account to the Board in accordance with that regulation as it applies to tax which has been repaid to a person which ought not to have been repaid to him.

(2) For the purposes of the adaptation required by paragraph (1), any reference in the said section 30 to the repayment of an amount of tax to any person which ought not to have been repaid to him shall be construed as including a reference to tax for which a person is to account to the Board in accordance with regulation 4.

(a) 1984 c.24.

(b) 1978 c.30; a relevant amendment was made by section 56(1) of and paragraph 18 of Schedule 5 to the Medical Act 1983 (c.54).

(c) 1970 c.9; section 30 was substituted by section 149 of the Finance Act 1982 (c.39) and the section as substituted was amended by paragraph 32 of Schedule 29 to the Income and Corporation Taxes Act 1988 (c.1) and (prospectively) by section 88(1) of the Finance (No. 2) Act 1987 (c.51) and paragraph 10(3) of Schedule 29 to the Income and Corporation Taxes Act 1988.

PART III

APPROVED BENEFITS

Approved treatments and associated services

6.—(1) Subject to paragraph (4), the treatments, medical services and other matters specified in this regulation, the costs of which may, in the circumstances set out in paragraph (2), be indemnified under a contract which is certified under section 56, are—

- (a) treatment of the insured consisting of medical or surgical procedures (including diagnosis), the purpose of which is the relief of illness or injury,
- (b) services provided to the insured of any of the kinds specified in the Schedule when they are associated with such treatment, and
- (c) drugs and dressings used in the course of such surgical procedures.

(2) The circumstances referred to in paragraph (1) are circumstances in which—

- (a) the treatment is given—
 - (i) in the United Kingdom by, or under the supervision of, a registered medical practitioner or registered dental practitioner, or
 - (ii) subject to the conditions specified in paragraph (3), outside the United Kingdom,
to the insured as a resident or non-resident private patient in a private or health service hospital or, in the case of surgical procedures performed by a registered medical practitioner providing general medical services, as a private patient of that practitioner; and
- (b) any services associated with the treatment are provided—
 - (i) in the United Kingdom, or
 - (ii) subject to the conditions specified in paragraph (3) and except for services provided for the purposes of convalescence, outside the United Kingdom, to the insured.

(3) The conditions specified in this paragraph are—

- (a) that the amount of the indemnity provided under the contract for such treatment and services does not exceed that provided for the same treatment and services when they are given or provided in the United Kingdom; and
- (b) that no more than two per cent. of the premium payable under the contract secures the indemnity in respect of the costs of such treatment and services, including the service consisting of transporting the insured from the place of treatment to the United Kingdom by air ambulance.

(4) The treatments specified in this regulation do not include any treatment which, during the period of five years preceding certification of the contract, has not been provided free by the Secretary of State under the National Health Service Act 1977 or the National Health Service (Scotland) Act 1978, or by the Department of Health and Social Services for Northern Ireland under the Health and Personal Social Services (Northern Ireland) Order 1972, more often than it has been provided in the United Kingdom otherwise than under any of those enactments.

(5) For the purposes of this Part of these Regulations—

- (a) “the insured” means any person who is insured under the contract;
- (b) a service is associated with a treatment if it is provided for the purposes of that treatment or is consequent on it.

Cash benefits

7. The rules specified in this regulation, within which a cash benefit provided under a contract which is certified under section 56 is to fall, are that the benefit may not exceed £5 for each night that the insured is accommodated—

- (a) in a private hospital, or
- (b) in a health service hospital in circumstances where he is charged for the

accommodation under section 65 of the National Health Service Act 1977(a), section 57 of the National Health Service (Scotland) Act 1978(b) or Article 31 of the Health and Personal Social Services (Northern Ireland) Order 1972(c).

Other rights

8. The other rights specified in this regulation which may be conferred by a contract which is certified under section 56 are—

- (a) a right in the person making payments in respect of a premium under the contract to terminate it before the expiry of the indemnity period and to receive a refund of payments made in respect of the period following termination;
- (b) waiver by the insurer of the right to payment of premium for any period in which the insured is receiving treatment the cost of which is indemnified under the contract and the right to receive a refund of payments made in respect of such a period;
- (c) a right in the person making payments in respect of a premium under the contract to enter into a further contract at the end of the indemnity period.

*Kenneth Carlisle
Stephen Dorrell*

19th December 1989 Two of the Lords Commissioners of Her Majesty's Treasury

Regulation 6(1)(b)

SCHEDULE

The kinds of services referred to in regulation 6(1)(b) are—

- (a) accommodation and other services (including nursing services) provided—
 - (i) in a private hospital, or
 - (ii) in a health service hospital in circumstances where the insured is charged for the accommodation and services under section 65 or 66 of the National Health Service Act 1977(d), section 57 or 58 of the National Health Service (Scotland) Act 1978(e) or Article 31 of the Health and Personal Social Services (Northern Ireland) Order 1972;
- (b) nursing services provided in the insured's home;
- (c) accommodation provided for the purposes of convalescence for a period of not more than 14 days immediately following the discharge of the insured from such a hospital;
- (d) transport by private ambulance to or from such a hospital or to or from a place where accommodation is provided for the purposes of convalescence;
- (e) services consisting of—
 - (i) physiotherapy,
 - (ii) speech therapy,
 - (iii) chiropody, or
 - (iv) prosthesis,
 including the provision of any equipment necessary for such services;
- (f) in the circumstances described in regulation 6(3)(b), transport by air ambulance.

(a) Section 65 was substituted by section 7(10) of the Health and Medicines Act 1988 (c.49).

(b) Section 57 was substituted by section 7(11) of the Health and Medicines Act 1988.

(c) Article 31 was substituted by Article 3(9) of S.I. 1988/2249 (N.I. 24).

(d) Section 66 was repealed by section 25(2) of and Schedule 3 to the Health and Medicines Act 1988.

(e) Section 58 was repealed by section 25(2) of and Schedule 3 to the Health and Medicines Act 1988.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are in three distinct parts. Part I contains introductory provisions which are common to Parts II and III. Part II is made under powers contained in section 54(7) and (8) of the Finance Act 1989 ("the 1989 Act") and provides that in certain circumstances an individual making a premium payment under a contract of private medical insurance is to have his entitlement to tax relief on that payment removed, what those circumstances are, for the circumstances in which tax for which relief has been given at source may be recovered from the person to whom the payment was made and for the adaptation of section 30 of the Taxes Management Act 1970 in order to secure that recovery by way of assessment.

Part III is made under powers contained in section 56(3) of the 1989 Act and specifies the approved benefits which may be provided by contracts of private medical insurance which are certified as eligible contracts for the purposes of tax relief.

Regulation 1 provides for citation and commencement.

Regulation 2 contains definitions.

Regulation 3 provides that a person making a premium payment under a contract of private medical insurance will have his entitlement to tax relief for that payment removed if the contract ceases to be an eligible contract for the purposes of the relief or if the payment is refunded to him.

Regulation 4 provides for the recovery of that tax relief from the person to whom the premium payment was made in circumstances where that person has recovered the relief from the Commissioners of Inland Revenue and not reimbursed them following removal of entitlement to relief for that payment.

Regulation 5 adapts the provisions of section 30 of the Taxes Management Act 1970 providing for the recovery of overpayments of tax by way of assessment under Case VI of Schedule D so that they apply in the same way to the recovery of tax relief under regulation 4.

Regulation 6 and the Schedule specify the treatments, medical services and other matters, the costs of which may be indemnified under contracts of private medical insurance which are certified as eligible contracts for the purposes of the relief and the circumstances in which those treatments, medical services and other matters may be given.

Regulation 7 specifies the rules for cash benefits provided under such contracts and regulation 8 specifies the other rights which may be conferred by such contracts.