



Finance Act 1989

1989 CHAPTER 26

PART II

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

Medical insurance

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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- (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) it shall be deducted from or set off against his income for the year of assessment in which it is made; but relief under this subsection shall be given only on a claim made for the purpose, except where subsections (4) to (6) below apply.
- (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.
- (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, 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 any time 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.

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—
 - (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),

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- (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,
 - (d) no benefit has been provided by virtue of the contract other than an approved benefit, and
 - (e) the contract meets one or more of the three conditions set out below.
- (3) The first condition is that the contract is certified by the Board under section 56 below at the relevant time.
- (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.
- (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.
- (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 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 mentioned in section 56(3)(a) below.

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.

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- (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,
 - (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.

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;
 - (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 contract or 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.
- (2) The words “Regulations under section 57 of the Finance Act 1989” shall be added at the end of each column in the Table in section 98 of the Taxes Management Act 1970 (penalties for failure to furnish information etc.).
- (3) The following provisions of the Taxes Management Act 1970, namely—
- (a) section 29(3)(c) (excessive relief),
 - (b) section 30 (tax repaid in error etc.),
 - (c) section 88 (interest), and
 - (d) section 95 (incorrect return or accounts),
- shall apply in relation to the payment of an amount claimed under section 54(6)(b) above to which the claimant was not entitled as if it had been income tax repaid as a relief which was not due.
- (4) In sections 257B(2), 257D(8) and 265(3) of the Taxes Act 1988 after paragraph (c) there shall be inserted “or
- (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.