

Plan Description

Priority Healthcare Insurance provides access to timely healthcare services in the event of a medical crisis. It offers plan members access to the following benefits:

1. case management and assistance services,
2. exceptional care, with an optional second opinion feature, and
3. a standard lifetime benefit of \$2 million USD.

Each Priority Healthcare Insurance policyholder benefits from major medical insurance coverage from Royal & Sun Alliance Insurance Company of Canada, with assistance from Global Excel Management Inc. (Global Excel), in order to ensure that the highest quality of service is provided.

Priority Healthcare Insurance is an annual renewable medical insurance plan that healthy individuals purchase in anticipation of a future illness or injury. Since each plan is individually medically underwritten, pre-existing conditions are excluded from coverage. In addition, all plans will have a deductible. After payment of the deductible, the standard benefit is a lifetime maximum allowable of \$2 million USD.

Claimants contact Global Excel either with a diagnosis in place, or they are already on a waiting list for treatment. The Priority Healthcare Insurance plan helps clients, along with their primary care physician, to make informed decisions concerning the diagnosis and proposed treatment plans for their medical conditions. The plan also offers an optional second opinion feature for clients who are seeking a detailed case review and a verification of diagnosis. Priority Healthcare Insurance facilitates access to care from top specialists and facilities by providing access to a network of world-renowned U.S. and Canadian healthcare facilities that have a proven and respected reputation in the treatment of serious medical conditions. The Priority Healthcare Insurance plan also provides funding for participants who may require or who choose to obtain treatment in the United States.

Priority Healthcare Insurance is an individual plan. The policy is owned by the individual with respect to whom the benefits are payable, and the services of Global Excel are provided directly to that individual. However, the costs of the plan need not necessarily be paid by the individual owner. For example, an employer may pay the costs of Priority Healthcare Insurance plans on behalf of individual employees or groups of employees as part of their compensation packages.

General

This memorandum summarizes the Canadian federal and provincial income tax treatment of amounts paid for the coverage and benefits received under the Priority Healthcare Insurance plan in a variety of circumstances. The income tax considerations related to the Priority Healthcare Insurance plan are essentially the same under federal and provincial legislation, except for the province of Quebec. The relevant differences between the federal and Quebec tax treatments are summarized under the heading Quebec Income Tax Considerations.

The comments in this memorandum are based on the federal and provincial income tax legislation and our understanding of the administrative practices of the Canada Revenue Agency (CRA) as at March 31, 2006. This memorandum is of a general nature only and is not exhaustive of all possible federal and provincial income tax considerations. It should not be construed as providing legal or tax advice to purchasers of the Priority Healthcare Insurance plan. Individuals or businesses considering the implementation of the Priority Healthcare Insurance plan for themselves, members of their families, or their employees are advised to seek independent professional advice concerning the income tax consequences for their particular situations.

Tax Status of the Priority Healthcare Insurance Plan

The income tax treatment of the insurance and service components of the Priority Healthcare Insurance plan differ in a number of respects. Although Priority Healthcare Insurance is offered as an integrated plan, the Priority Healthcare Insurance policy and the services provided by Global Excel are independently priced, thus facilitating the separate tax accounting requirements for each of the components.

Insurance Component

The income tax legislation contains special provisions related to "private health services plans" (PHSPs). The definition of a PHSP includes "...a contract of insurance with respect to hospital expenses, medical expenses or any combination of such expenses," except publicly funded medical insurance plans established under federal or provincial legislation. The CRA has published an interpretation bulletin (IT-339R2) on the meaning of the term PHSP. It is CRA's view that the coverage under a PHSP must be in respect to hospital or medical care or expenses which normally would otherwise have qualified as a "medical expense" for purposes of the medical expense tax credit under the Income Tax Act.

The insurance policy issued under Priority Healthcare Insurance will qualify as a PHSP for the purposes of the medical expense tax credit and the employee benefit rules (which are discussed under the heading Employee Benefit Applications).

Services Component

The income tax legislation also contains special provisions related to "... counselling services with respect to the mental or physical health of the taxpayer or an individual related to the taxpayer." Such benefits, if paid by an employer, will not result in a taxable benefit to the employee.

The services provided by Global Excel under the Priority Healthcare Insurance plan should be regarded as health counselling services for purposes of these special provisions.

Individual Applications

Where individuals acquire the Priority Healthcare Insurance plan for themselves or members of their families and pay the costs personally, the income tax consequences are as follows:

1. Neither the premiums paid for the Priority Healthcare Insurance policy nor the fees paid for the services of Global Excel are deductible in calculating the individual's taxable income.
2. The premiums paid by the individual for the Priority Healthcare Insurance policy for one or more of the individual, the individual's spouse and any member of the individual's household with whom the individual is connected by blood relationship, marriage or adoption, will qualify as a "medical expense" for purposes of the medical expense tax credit. The amount paid for the services of Global Excel would not qualify as a "medical expense".
3. All benefits received under the Priority Healthcare Insurance plan are not subject to tax.
4. The medical expenses which are paid for, or expenses for which the individual is reimbursed, under the Priority Healthcare Insurance policy will not qualify for purposes of the individual's medical expense tax credit. However, amounts paid by the individual pursuant to the deductible provisions of the policy will so qualify.

Employee Benefit Applications

The most tax-effective application of the Priority Healthcare Insurance plan is in the context of employee benefit plans. Where an employer covers the cost of the Priority Healthcare Insurance plan for an individual employee or selected groups of employees and members of their families, the tax consequences are as follows:

1. Both the premiums for the Priority Healthcare Insurance policy and the fees for the services of Global Excel paid by the employer on behalf of employees and members of their families will be tax deductible to the employer as a normal business expense.
2. The payment by the employer of both the insurance premiums and service fees under the Priority Healthcare Insurance plan on behalf of employees and members of their families should not be included in the employee's income as a taxable benefit. The legislation provides explicit exemptions from taxable employment benefits for:
"any benefit"
 - (i) derived from the contributions of the taxpayer's employer to or under a... private health services plan...
 - (iv) derived from counselling services with respect to the mental or physical health of the employee or an individual related to the employee..."
3. An employer may provide the insurance policy issued under Priority Healthcare Insurance for the benefit of employees and members of their families through a Health and Welfare Trust. The employer's contributions to the trust with respect to the Priority Healthcare Insurance policy will:
 - (a) be tax deductible to the employer, and
 - (b) not be included in the employees' income as a taxable benefit. **(Quebec Residents please see the heading Quebec Income Tax Considerations.)**
4. All benefits received by employees or their family members under Priority Healthcare Insurance are not subject to tax.
5. Neither the premiums paid by the employer with respect to the Priority Healthcare Insurance policy nor the medical expenses that are paid for or reimbursed under the policy will qualify as "medical expenses" for purposes of the employees' medical expense tax credit. However, amounts paid by the employee pursuant to the deductible provisions of the Priority Healthcare Insurance policy will so qualify.

Sole Proprietor and Partnership Applications

Where Priority Healthcare Insurance plans are established for individuals and members of their families who carry on unincorporated businesses alone or in partnership, in which the individual is actively engaged on a regular and continuous basis, the income tax consequences are as follows:

1. The individual proprietor or partner may be entitled to a tax deduction for all or a portion of the premiums paid with respect to the Priority Healthcare Insurance policy for themselves and/or members of their families. However, there are significant restrictions on the amounts that can be deducted. In general terms, the restrictions are as follows:
 - (a) No deduction may be claimed unless the individual's income from the business represents more than 50% of the individual's total income or the individual does not earn more than \$10,000 from other sources.
 - (b) Where the number of arm's length full-time employees to whom the Priority Healthcare Insurance policy has been made available is at least equal to the number of proprietors or partners and members of their families who are employed in the business, the deduction for the cost of the individual proprietor's or partner's coverage is restricted to the "cost of equivalent coverage" with respect to the arm's length employees.

For example, if the Priority Healthcare Insurance policy is made available to all arm's length employees, but only 50% of the plan costs are paid for by the employer, then only 50% of the premium costs for the Priority Healthcare Insurance policy coverage for the proprietor or partner will be tax deductible.

Similarly, if the Priority Healthcare Insurance policy is made available only to the arm's length employees but not to their spouses or family members, the proprietor or partner will not be entitled to a deduction for any portion of the premiums that they may pay for their spouses or other members of their families.
 - (c) Where the number of individual proprietors or partners and members of their families who are employed in the business exceeds the number of arm's length employees, the deduction is further restricted to the lesser of:
 - (i) the cost of equivalent coverage with respect to the arm's length employees as described in (b) above, and
 - (ii) \$1,500 with respect to each of the individual, the individual's spouse and each adult child covered under the plan and \$750 for each minor child.
 - (d) Where no arm's length individuals are employed in the business, the deduction is limited to \$1,500 with respect to each of the individual, the individual's spouse and each adult child covered under the plan and \$750 for each minor child.
2. The fees paid for the services of Global Excel under the Priority Healthcare Insurance plans established for sole proprietors or partners and members of their families are not tax deductible to the proprietor or partner nor do the fees qualify for the medical expense tax credit.
3. All benefits received by the proprietors or partners under Priority Healthcare Insurance are not subject to tax.
4. To the extent that the premiums paid by individual proprietors or partners for a Priority Healthcare Insurance policy with respect to themselves or members of their families are not deductible as described in (1) above, such amounts will qualify as "medical expenses" for purposes of the proprietor's or partner's medical expense tax credit. In addition, amounts paid by the proprietor or partner pursuant to the deductible provisions of the policy will so qualify.

Many accountants, lawyers and other professionals have established professional corporations which participate as the partners in their firms. The individuals are then employed by their own professional corporations. Many other professional firms have established management services corporations that employ the partners and provide administrative services to the partnership on a fee basis.

In situations where professional or management services corporations are involved, it would likely be more tax effective for these corporations to pay the costs of the Priority Healthcare Insurance plans established for the professionals as a part of their employment compensation packages. Where this is done, the tax consequences will be as described above under the heading Employee Benefit Applications, subject to the comments under the heading Shareholder/Employee Applications.

Shareholder/Employee Applications

Where a corporation pays the cost of the Priority Healthcare Insurance plan for the benefit of a shareholder and/or members of the shareholder's family, the tax consequences will depend on whether the shareholder is also employed by the corporation.

Non-employed Shareholders

If the shareholder is not employed by the corporation, the tax consequences are as follows:

1. The insurance premiums and service fees paid by the corporation with respect to the Priority Healthcare Insurance plan for the shareholder or members of the shareholder's family will not be tax deductible to the corporation.
2. All amounts paid by the corporation with respect to the Priority Healthcare Insurance plan for the shareholder or members of the shareholder's family will be included in the shareholder's income as a taxable benefit.
3. All benefits received by the shareholders under Priority Healthcare Insurance are not subject to tax.
4. The premiums paid by the corporation for Priority Healthcare Insurance policies for the shareholders or members of their families will not qualify as "medical expenses" for purposes of the shareholders' medical expense tax credit. However, amounts paid by the shareholders pursuant to the deductible provisions of the Priority Healthcare Insurance policy will so qualify.

Employed Shareholders

If the shareholder is also employed by the corporation, the income tax consequences will depend on whether the payment of the Priority Healthcare Insurance plan costs by the corporation is considered to be a benefit conferred upon the individual in his or her capacity as a shareholder or as an employee. If the payment of the Priority Healthcare Insurance plan costs by the corporation is treated as a shareholder benefit, the income tax consequences are as described immediately above. However, if such payments are treated as an employment benefit, the more favourable tax consequences as described under the heading Employee Benefit Applications would result.

There are no definitive legislative rules for distinguishing between cases that will be treated as shareholder benefits and those that will be treated as employment benefits. Each case must be assessed separately, giving consideration to all the relevant facts and circumstances. However, in responding to various requests for technical interpretations, the CRA has offered the following general guidelines:

1. When participation in a plan is extended to employee-shareholders of a corporation and excludes employees who are not shareholders, CRA will presume that the benefit is received because of the individual's shareholdings rather than by reason of the individual's employment.
2. When participation in a plan is extended to all employees, or a group of employees which includes individuals who are not shareholders, participation in the plan by the shareholder-employees will normally be considered to have been received by them by virtue of their employment.
3. When all employees of a corporation are shareholders and it is reasonable to conclude that participation in the plan has been provided as part of a reasonable remuneration package and the amount is consistent with benefits that would be offered to an arm's length employee performing similar service, the benefit from such participation will be considered to relate to the individuals' capacity as employees and not shareholders.

Quebec Income Tax Considerations

The computation of an individual's taxable income under federal and Quebec income tax legislation is broadly similar. However, there are differences that have a significant impact on the income tax consequences for employees in situations where an employer pays the cost of Priority Healthcare Insurance plans established for employees or members of their families.

The federal income tax legislation specifically provides that benefits derived by employees from contributions made by the employer to a PHSP or from counselling services with respect to the health of the employee or member of the employee's family are not included in the employee's income as taxable benefits. The Quebec legislation does not include similar exemptions. Consequently, Priority Healthcare Insurance premiums and service fees paid by an employer on behalf of employees who are resident in Quebec must be included in their income for provincial income tax purposes.

In all other aspects, the income tax consequences related to the Priority Healthcare Insurance plans in the circumstances described in this memorandum are the same for federal and Quebec tax purposes.