

Medical/Dental Cost-Plus Benefit Plan

Have you ever wished for a medical or dental plan that you could control, one that would pay expenses not covered or limited under a regular group insurance contract, such as the other 50% of your children's orthodontics bill, or the laser eye surgery you plan to have?

Now you can with our Medical/Dental Cost-Plus Benefit Plan!

Your firm contracts with CAIPW to reimburse employees' medical expenses. In return, your firm pays CAIPW the amount of such claims, plus a fixed fee (that's the 'plus!').

The expenses must qualify as 'medical expenses' under subsection 118.2(2) of the Income Tax Act. This includes any health or dental related, medically necessary expense that could be claimed as a medical expense credit on a tax return, but may not be covered under a typical Health or Dental plan. Some examples of supplies and services not typically covered by a Health plan, but are covered by a Medical/Dental Cost Plus Benefit plan include (not available in all provinces – certain amounts may not be available under provincial law):

- Cosmetic surgery
- Expenses related to sight or hearing guide dogs
- Optical scanners for people with visual impairments
- Earplugs
- Medic-alert bracelets
- Eyeglasses
- Massage therapy
- Orthodontic Dental work
- Laser Eye surgery

This plan is designed to qualify as a 'private health services plan'. Under such a plan, the firm's payment to CAIPW is a deductible premium, and the payment by CAIPW to the employee is not taxable income or a taxable benefit, nor does it attract any other statutory benefits like CPP or EI.

Is this plan available to shareholders/owners?

Yes, but if you make the plan available only to shareholders/owners, for example, if you are a partner, but only have a plan for yourself through your professional corporation, the Canada Revenue Agency may argue that the plan is not a benefit received by virtue of employment, but rather an appropriation by a shareholder. In this case, the benefit could be taxable to the individual, and non-deductible to the corporation/firm.

Coverage similar to the owner's must be made available to all permanent full-time arm's-length employees.

Sole practitioners with no arm's-length employees would be allowed to deduct premiums to a maximum of \$1,500 for each of the individual and their spouse, and \$750 per child. However a later ruling appears to limit the use of these plans for unincorporated sole practitioners.

No limits are proposed if the number of arm's-length employees receiving coverage is at least 50% of the total number of employees and the coverage is equivalent to the owner's. The coverage must commence before the employee has 3 months of service. In previous interpretations, the Canada Revenue Agency has indicated that each partner is an employer of all employees of the partnership. The budget indicates that additional restrictions will be put in place to prevent circumvention of this restriction through the use of management companies.

The Tax Act also requires that payment be made under an appropriate contract of insurance, so self-insured arrangements will not qualify.

Attached is a letter and memo from our tax advisors with additional information regarding the Cost Plus Medical Dental Plan. You should review your particular circumstances and/or obtain independent tax advice as necessary.

A contract and a reimbursement form are on our website. If you have any questions, please call.

Patty Glover, CA
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February 8, 2010

PRIVATE & CONFIDENTIAL

Patty Glover, CA
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Dear Patty

Further to your recent request, we enclose a revised copy of a memorandum originally prepared by our predecessor firm, Gardiner Karbani Audy + Partners, in respect of the income tax status of a "cost plus" insurance plan.

The information provided in the enclosed memorandum is based on legislation and the Canada Revenue Agency's (CRA) published interpretations as of today's date. It is always possible that future changes in the law, CRA interpretations, or court interpretations would change the application of the legislation, resulting in changes to our conclusions. None of the opinions expressed in the memorandum are, or should be construed to be, legal opinions.

While every effort has been made to address all relevant issues in the accompanying memorandum, it is necessarily directed at a general overview of the legislation and CRA's interpretations thereof. It would be prudent of members who are not versed in taxation matters to seek specific advice regarding their personal circumstances prior to embarking on any specific course of action based on our comments.

Please give us a call if we can be of any further assistance.

Yours truly

BDO Canada LLP

Chartered Accountants

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February 8, 2010

Re: CA Insurance Plans West - Cost Plus Medical Plan

PROPOSED PLAN

The plan as proposed would enable employers to pay the insurance company for certain medical costs over and above those covered by conventional insurance plans. There would be no fixed premiums for the plan. Rather, the employer would pay the insurance company the cost of the medical services, plus an administration fee (15% of the cost under the similar plan provided by CA Insurance Plans West (CAIPW)).

ISSUES

There are essentially two issues, being as follows:

1. Whether payments by the employer would be deductible for income tax purposes.
2. Whether payments under this plan would constitute a taxable benefit to the employee (benefits which are not taxable are also exempt from CPP and EI).

DEDUCTIBILITY TO EMPLOYER

This is the less complex of the two issues. The payment of employee benefits is generally accepted to be incurred to attract and retain employees. As such, these payments are considered to be laid out to earn income, and thus to be deductible for income tax purposes.

The only potential problem which I could foresee arising would relate to plans available only to the business owners/shareholders and related persons. In this case, it is possible the Canada Revenue Agency would argue that the plan is not a benefit received by virtue of employment, but is rather an appropriation by a shareholder. In this case, the benefit could be taxable to the individual, and non-deductible to the corporation.

TAXABILITY TO EMPLOYEE

Employees are not taxable on benefits derived from employer contributions to or under a "private health services plan" [ITA 6(1)(a); defined in ITA 248(1)]. Such plans can be contracts of insurance or insurance plans in respect of medical and/or hospital care costs. Public health care plans, such as Alberta Health Care, are specifically excluded from the definition.

All expenses covered must meet the definition of "medical expenses" for income tax purposes. This definition is fairly broad, and would generally include such items as dental and orthodontic work, vision correcting laser surgery, and a host of other costs not covered by conventional health insurance plans, as well as the co-insurance portion of expenses covered by such plans.

In Interpretation Bulletin IT-339R2, the Canada Revenue Agency acknowledges that cost plus plans such as the one being considered by CAIPW are considered to meet the definition of "private health services plan" provided, of course, that the items covered are medical expenses for income tax purposes. In a 1996 technical interpretation, the Canada Revenue Agency also affirmed that a "cost plus" plan of this nature could be administered by an association to which the employer belonged, provided the markup was reasonable. It is my understanding that CAIPW's intent is to charge a rate which is competitive in the market, which would generally be considered a reasonable rate.

Again, the issue of benefits provided to a shareholder or owner is relevant. As discussed above under Deductibility to Employer, plans available only to owners or shareholders and related parties would likely be considered benefits conferred in a capacity other than employee, such that the cost of the plan would be considered a benefit to the plan member.

Based on the above, it is my opinion that the benefits derived under a plan of this nature would not be taxable to employees of the organization entering into the plan. This is predicated on the assumption that the costs covered by the plan are medical expenses for income tax purposes, and that the plan members receive this benefit in their capacity as employees.