

TAX PLANNING FOR MEDICAL EXPENSES

Introduction:

There have been many changes in the Income Tax Act over the period of last two years as far as deductions available on medical grounds are concerned. The amount of deduction was increased, the percentage of required disability was reduced, more disabilities were added, the definition of dependent was drastically changed and the provisions regarding disability / treatment certificate were made more stringent. If one is aware of the provisions of income tax act, one can do better planning of the income receivable, expenditure required for medical purposes, deductions available and tax payable. This article gives an insight to the same.

Value of Perquisites – Reimbursed Medical Expenses.

As per the definition of “Salary” given in the Income Tax Act, Salary includes perquisites (benefits given by the employer which are not in terms of cash) All fringe benefits or amenities have been made taxable (for person having income above Rs. 1,00,000 /-) but medical facilities provided by any hospital maintained by the employer and in certain other hospitals are exempted. Earlier, between 1955 and 1987, the Central Board had issued various circulars qualifying and limiting the exemption in respect of free medical facilities and reimbursement of medical expenses. Presently, the position is as under :-

{A} Medical Facilities in India. In the following cases, medical facilities / reimbursement of medical expenses are treated as tax free perquisites :-

1. The value of any medical treatment provided to an employee or any member of his family in any hospital , dispensary or nursing home maintained by the employer.
2. Any sum paid by the employer in respect of :--
 - (a) Any amount actually spent by the employee for obtaining his or his family member’s medical treatment subject to maximum of Rs. 15,000 /-. However, in the following cases this limit of Rs. 15,000 /- is not applicable :--
 - (i) Medical treatment as mentioned above is done in any hospital maintained by the Government or by any local authority or in a hospital approved by the Government.
 - (ii) Expenditure in respect of following prescribed diseases in any hospital approved by the Chief Commissioner of the Income Tax. :-
 - (aa) Cancer.
 - (ab) TB.
 - (ac) AIDS.
 - (ad) Diseases of heart, blood, lymph gland, bone marrow, respiratory system, CNS, urinary system, liver, gall bladder, digestive system, endocrine glands or skin requiring surgical operation or continuous medical treatment in hospital for three days or more.
 - (ae) Diseases of eyes or ENT requiring surgical operation.
 - (af) Fracture in skeletal system / vertebrae requiring surgical operation / orthopaedic treatment.
 - (ag) Gynaecological or obstetric ailment requiring surgical / caesarean / laparoscopic operation or continuous medical treatment in hospital for three days or more.

(ah) Burn injuries requiring continuous medical treatment in hospital for three days or more.

(ai) Mental disorder (either neurotic or psychotic) requiring continuous medical treatment in hospital for three days or more.

(aj) Drug addiction requiring continuous medical treatment in hospital for seven days or more.

(ak) Anaphylactic shocks including insulin shocks, drug reactions and other allergic manifestations requiring continuous medical treatment in hospital for three days or more.

(b) Any portion of insurance premium paid by the employer for insurance of the health of the employees under a scheme approved by the Government of India / Insurance Regulatory and Development Authority (IRDA).

(c) Any reimbursement by the employer of any insurance premium paid by the employer for an insurance for his health or for the health of his / her spouse, dependant parents and dependant children under any scheme approved by the Government of India / IRDA for the purpose under section 80D.

{B} Medical Treatment Outside India. The following expenditure incurred by employer on treatment of the employee or his family members outside India is also a tax-free perquisite:

1. Expenses (to the extent permitted by the Reserve Bank of India) on medical treatment of the employee or any member of his family outside India.
2. Expenses (to the extent permitted by the Reserve Bank of India) on stay abroad of the employee or any member of his family for medical treatment with one attendant who accompanies the patient in connection with such treatment.

Deduction in Respect of Medical Insurance Premium.

As per the provisions of section 80D of the Income Tax Act, deduction up to Rs. 10,000 /- spent (by way of cheque) for premium paid for any medical policy (approved by the Central Government / IRDA) taken in the name of self or spouse or dependant children and dependant parents is permitted. In case the policy holder is a 'Senior Citizen', the deduction up to Rs. 15,000 /- is permitted.

Deduction in respect of Maintenance including Medical Treatment of a Disabled Dependant.

As per the provisions of section 80DD of the Income Tax Act, An assessee shall be permitted deduction of sum of Rs. 50,000 /- (for disability) and of Rs. 75,000 /- (for severe disability) if he, during the previous year has

- (a) incurred any expenditure for the medical treatment (including nursing), training and rehabilitation of a dependant, being a person with disability; or
- (b) paid or deposited any amount under a scheme framed in this behalf by the LIC or by any other insurer or the Administrator or a specified company (subject to specified conditions and approved by the Board) for the maintenance of a disabled dependant.

The conditions referred in subparagraph (b) above are as under: -

(I) The scheme provides for payment of annuity or lump sum amount for the benefit of a disabled dependant in event of the death of the individual in whose name subscription to the scheme has been made.

(ii) The assessee nominates either the disabled dependant or any other person or trust to receive the payment on behalf of disabled dependant.

(iii) In case the disabled dependant predeceases the assessee, the amount paid will be deemed to be the income of the assessee.

Definition of Dependant, Person with Disability, Person with Severe Disability and Medical Certificates.

Dependant : Dependant means the spouse, children, parents, brothers and sisters of the assessee who are dependant wholly or mainly on the assessee.

Person with Disability: ‘Person with disability’ means persons having condition of autism, cerebral palsy and multiple disability and minimum 40% disability as specified by the medical authority in any of the following aspects:-

- (a) Blindness.
- (b) Low Vision.
- (c) Leprosy Cured.
- (d) Hearing Impairment.
- (e) Locomotor Disability.
- (f) Mental Retardation.
- (g) Mental Illness.

Person with Severe Disability: ‘Person with severe disability’ means persons having minimum 80% disability as specified by the medical authority in any of the following aspects:-

- (a) Blindness.
- (b) Low Vision.
- (c) Leprosy Cured.
- (d) Hearing Impairment.
- (e) Locomotor Disability.
- (f) Mental Retardation.
- (g) Mental Illness.
- (h) Multiple disability.(Combination of two or more disabilities mentioned above)
- (i) Condition of autism.
- (j) Cerebral palsy.

Blindness: “Blindness” refers to a condition where a person suffers from any of the following conditions:--

- (i) Total absence of sight.
- (ii) Visual acuity not exceeding 6/60 or 20/200 (snellen) in the better eye with correcting lenses.
- (iii) Limitation of the field of vision subtending an angle of 20% or more.

Low Vision : “Person with Low Vision” means a person with impairment of visual functioning even after treatment or standard refractive correction but who uses or is potentially capable of using vision for planning or execution with appropriate assistive device.

Leprosy Cured: “Leprosy Cured Person” means any person who has been cured of leprosy but is suffering from:-

- (i) Loss of sensation in hands or feet as well as loss of sensation and paresis in the eye and eyelid but with no manifest deformity.
- (ii) Manifest deformity and paresis but having sufficient mobility in their hands and feet to enable them to engage in normal economic activity.

(iii) Extreme physical deformity as well as advanced age, which prevents him from undergoing any gainful occupation.

Hearing Impairment : “Hearing Impairment” means loss of sixty decibels or more in the better ear in the conversational range of frequencies.

Locomotor Disability: “Locomotor Disability” means disability of bones, joints or muscles leading to substantial restriction of the movement of limbs or any form of cerebral palsy.

Mental Retardation: “Mental Retardation” means a condition of arrested or incomplete development of mind of a person, which is specially characterized by sub normality of intelligence.

Mental Illness : “Mental Illness” means any mental disorder other than mental retardation.

Autism: “Autism” means a condition of uneven skill development primarily affecting the communication and social abilities of a person, marked by repetitive and ritualistic behaviour.

Cerebral Palsy: “Cerebral Palsy” means a group of non-progressive conditions of a person characterised by abnormal motor control posture resulting from brain insult or injuries occurring in pre-natal, perinatal or infant period of development.

Required Medical Certificates:

As per the provisions of rule 11A, the assessee are required to furnish along with the return of income, a copy of the certificate issued by the medical authority in the form prescribed vide notifications that give clarifications about issuing disability certificates as per the provisions of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. Further, where the condition of disability is temporary and requires reassessment after a specified period the certificate shall be valid only for the period given (both starting and ending assessment years relevant to the previous years during which the date of commencement of the disability and the date of expiry of the certificate fall are included). As per these notifications disability certificate will be issued by a Medical Board of three members (of which one member shall be a specialist doctor in the field of respective disability) duly constituted by the Central / State Governments. Also, the notifications have given detailed clarifications on types and grades of disability. Following types of certificates have been specified.

STANDARD FORMATS OF CERTIFICATES

Name & Address of the Institute / Hospital issuing the certificate

Certificate No.....

Date.....

CERTIFICATE FOR THE PERSONS WITH DISABILITIES

This is to certify that Shri / Smt / Kumson / wife / daughter of Shri.
 Age old male / female, Registration No. is a case
 of He / She is physically disabled / visual disabled / speech & hearing
 disabled and has% (.....percent) permanent (physical
 impairment/visual impairment/speech & hearing impairment) in relation to his / her

Note :--

1. This condition is progressive / non-progressive / likely to improve / not likely to improve.*
2. Re-assessment is not recommended / is recommended after a period of
 months / years.*

* strike out which is not applicable.

Sd/-
(Doctor)
Seal

Sd/-
(Doctor)
Seal

Sd/-
(Doctor)
Seal

Signature / thumb impression
Of the patient.

Countersigned by the
Medical Superintendent/CMO/Head of the
Hospital with seal

Recent Attested
Photograph
showing the
disability affixed
here.

CERTIFICATE OF MENTAL RETARDATION FOR GOVERNMENT BENEFITS

This is to certify that Shri / Smt / Kumson / wife / daughter of Shri.
..... of Village/Town/City with particulars
given below :-

- (a) Age
- (b) Sex
- (c) Signature / Thumb impression

Categorisation of mental retardation
Mild / Moderate / Severe / Profound

Validity of Certificate : Permanent

Signature of the Government
Doctor / Hospital with seal
Chairperson Mental Retardation
Certification Board

Recent Attested
Photograph showing
the disability affixed
here.

Dated :

Place:

.....

Deduction in case of a Person with Disability.

As per the provisions of section 80U of the Income Tax Act, in computing the total income of an individual, being a resident, who, at any time during the previous year, is certified by the medical authority to be a person with disability, there shall be allowed a deduction of Rs. 50,000/-. In case of severe disability, the deduction will be of Rs. 75,000 /-. All other provisions (except proof of dependency) will remain same as for section 80DD.

For claiming the deduction, a certificate issued by the medical authority under the Persons with Disability (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, is to be filed along with the return of income.

Under the old section (prior to Finance Act 2003) it was held that such certificate could be produced at any stage of assessment proceedings. Also, under the old section, it was also held that even if the physical disability did not reduce the capacity to engage in gainful employment, the assessee was entitled to benefit under this section. Also, it was not a condition precedent for allowing the deduction that the assessee must have been unemployed or earning nothing.

Deduction in Respect of Medical Treatment for Chronic Diseases.

As per the provisions of Section 80 DDB, where an assessee has actually paid any amount for the medical treatment of such disease or ailment (as may be specified in the rules) for himself or a dependent, the assessee shall be allowed a deduction of the amount actually paid or a sum of forty thousand rupees, whichever is less, in respect of the previous year in which such amount was actually paid. This deduction shall be further reduced by any amount reimbursed by the employer or paid by the insurer. A certificate is required in the prescribed form (Form 10-I) from a specialist doctor working in a Government Hospital. In case of the patient being a senior citizen, 'forty thousand rupees' be substituted by 'sixty thousand rupees'. 'Dependant' means the spouse, children, parents, brothers and sisters of the assessee who are dependant wholly or mainly on the assessee.

The following diseases have been specified in Rule 11D:-

(I) Below mentioned Neurological diseases where disability level has been certified to be 40% and above :-

- (a) Dementia
 - (b) Dystonia Musculorum Deformans
 - (c) Motor Neuron Disease
 - (d) Ataxia
 - (e) Chorea
 - (f) Hemiballismus
 - (g) Aphasia
 - (h) Parkinsons Disease
- (ii) Malignant Cancers
 - (iii) Full Blown Acquired Immuno Deficiency Syndrome (AIDS)
 - (iv) Chronic Renal Failure
 - (v) Hematological disorders :-
 - Hemophilia
 - Thalassaemia

The specialist doctor as mentioned above means, in case of Neurological diseases a Neurologist having a Doctorate of Medicine degree in Neurology or equivalent degree recognised by the Medical Council of India, in case of Cancer an Oncologist having a Doctorate of Medicine degree in Oncology or equivalent degree recognised by the Medical Council of India, in case of Chronic Renal Failure a Nephrologist having a Doctorate of Medicine degree in Nephrology or a Urologist having a Doctorate of Chirurgiae degree in Urology or equivalent degree recognised by the Medical Council of India and in case of Hematological disorders a specialist having a Doctorate of Medicine degree in Hematology or equivalent degree recognised by the Medical Council of India.

Where no specialist doctor has been specified or where appropriate specialist doctor is not posted in the Government Hospital where treatment is being taken, such certificate, with prior approval of the Head of the Hospital, can be issued by any other specialist working full time in the hospital and having a post graduate degree in General or Internal Medicine recognised by the Medical Council of India.

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FORM NO. 10-I

[See rule 11DD]

Certificate of prescribed authority for the
Purposes of section 80DDB

1. Name of Patient
2. Address
3. Father's name
4. Name and address of the person on whom the patient is dependent and his relationship with the patient.
5. Name of the disease or ailment (please see rule 11DD)
6. For diseases or ailments mentioned in item (i) of clause (a) of sub-rule (1), whether the disability is 40% or more (Please specify the extent)
7. Name, address, registration number and qualification of the specialist issuing the certificate, along with the name and address of the Government Hospital [see rule 11DD(2)]

Verification

This is to verify that I, Dr.s/o (w/o) Shri., in the case of Shri. / Smt / Ms., after considering the entire history of illness, careful examination and appropriate investigations, am of the opinion that the patient is suffering from disease / ailment during the previous year ending 31st March

I also certify (only in case of neurological diseases) that the extent of disability is more than 40% (strike off, if not applicable).

I certify that the information furnished above is true to the best of my knowledge.

Date

Place

.....

Signature
(Name and address)

.....

Important Points to Note

1. Reimbursement of Medical Expenses. The plain meaning of the provisions of the Income Tax Act is that deduction of expenditure reimbursed by the employer for the diseases that are not eligible will be disallowed (in excess of Rs. 15,000/-) if the treatment is taken at hospitals not approved.

2. Medical Insurance Premium. The words ‘payment by cheque’ are important. Since the statute does not refer to any other mode of payment, payment made by any mode other than cheque will be disallowed.

3. Definition of Dependent. This definition is important in the sense that grand parents / uncles / grandchildren etc. are NOT covered under this section. Earlier grand parents / grand children were also covered. Second important point to note is that earlier the requirement was that the person must have been fully dependent on the assessee. Now the requirement is that the person concerned must be mainly dependent on the assessee.

4. Deductions for Disability to Self / to Dependents.

(a) Under the old sections (prior to Finance Act 2003) it was held that Disability Certificate could be produced at any stage of assessment proceedings. Now, the certificate is required to be attached along with the Return of Income.

(b) The following have been held by various courts of law :-

(i) It was not a condition precedent for allowing the deduction that the assessee must have been unemployed or earning nothing. [Sardar Harpreet Singh Vs CIT (1991) 187 ITR 679(All)]

(ii) Earning of income / Quantum of income can not be a ground for denying deduction. [CIT Vs Bhagwat Prasad Parikh (1999) 239 ITR 645 (Guj)] [CIT Vs K. Santhanakrishnan (2000) 241 ITR 582 (Mad).]

(iii) However, in the case of KS Srinivasan Vs. CIT (1999) 102 Taxman 342 (Mad.) it was held that ‘assessee must not only be suffering from one of the prescribed disabilities but also satisfy the second requirement of inability to get engaged in gainful employment’.

This dispute is now put to rest by the legislature itself by amending the Act. The second requirement given in the earlier Section 80U regarding gainful employment now stands removed.

(c) As per the Act, Disability Certificate is to be given by the ‘Boards formed by the Central / State Governments.’ Practically, the respective governments have delegated the authority to issue the Disability Certificates to various Government Hospitals and also to some Non Government Hospitals.

5. Deduction in respect of Treatment for Specified Diseases.

(a) Earlier there was an ambiguity about the amount of deduction available. Some people interpreted the language of the section to mean deduction of Rs. 40,000 /- (or Rs. 60,000 /- as the case may be) irrespective of the expenditure. Others interpreted it as actual expenditure limited to Rs. 40,000 /- (or Rs. 60,000 /- as the case may be). This controversy has now been put to rest by clearly mentioning the “deduction will be actual amount expended limited to Rs. 40,000 /- (or Rs. 60,000 /- as the case may be)”. Since the deduction is based on actual expenditure, the proof of expenditure in terms of hospital bills, medicine purchase bills, nursing bills, investigation bills etc. will be required.

(b) Earlier certificate from any specialist doctor was sufficient. Now, the certificate is required only from a specialist doctor employed by a Government Hospital.

(c) The term Government Hospital for this section includes :

(i) A departmental dispensary run by a Department of the Government for the medical attendance and treatment of a class or classes of Government servants and members of their families. (Thus, Military Hospital is included in the term Government Hospital)

(ii) A hospital maintained by a local authority.

(iii) Any other hospital with which arrangements have been made by the Government for the treatment of Government servants.

Conclusion

Army does care for all her jawans / officers and their families as far as medical problems are concerned. The hospitalisation, medication and treatment is either free or is heavily subsidized. Still, one has to spend some amount (specially for ailing parents) for the medical treatment. As per the tradition of our Indian culture, one has to look after one's age old parents. Also, it is possible that free medical treatment is not available at each place. Otherwise also, sometimes one incurs heavy expenditure on medication. I hope that the provisions given in this article will help such jawans and officers.

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(Words – 3,450 approximately)