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SECTION 248(1)  
SECTION 118.2(2)(n)  
SECTION 118.2(2)(q)  
SECTION  
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Please note that the following document, although believed to be correct at the time of issue, may not represent the current position of the CRA.

Prenez note que ce document, bien qu'exact au moment émis, peut ne pas représenter la position actuelle de l'ARC.

PRINCIPAL ISSUES:

Whether premiums paid and prescription co-payments made to a provincial drug plan are qualifying medical expenses pursuant to subsection 118.2(2) of the Income Tax Act.

POSITION:

Yes

REASONS:

To the extent of the benefit coverage currently defined under the provincial drug plan, it is our opinion that premiums paid and prescription co-payments made to the plan are qualifying medical expenses pursuant to paragraph 118.2(2)(q). If the plan is ever modified to include coverage for disbursements which are not qualifying medical expenses pursuant to subsection 118.2(2), the premiums paid and prescription co-payments made to the plan would no longer qualify under paragraph 118.2(2)(q).

XXXXXXXXXX  
(613) 957-8961  
November 8, 2006

2006-020593  
D Tiu

Dear XXXXXXXXXXXX :

Re: Premiums and Prescription Co-payments  
to the Nova Scotia Senior's Pharmacare Program

We are writing in response to your September 18th, 2006 inquiry on the above subject and further to our subsequent telephone discussions (XXXXXXXXXX /Tiu). You inquired whether premiums paid and prescription co-payments made to the Nova Scotia Senior's Pharmacare Program are qualifying medical expenses pursuant to subsection 118.2(2) of the Income Tax Act (the "Act").

You provided the following additional information:

? You represent an operating company ("Opco"), which has an established benefit plan (the "Plan") for retirees (collectively "Participants"). You indicated that the Plan qualifies as a PHSP for purposes of subsection 248(1).

? Participants are provided under the terms of the Plan with (among other things) a health spending account ("HSA"), the amount of which depends on the years of service and age of each participant.

? Participants may be reimbursed under the HSA for medical expenses incurred by them (and by certain other individuals related to the participant, e.g. spouses) that qualify under subsection 118.2(2) and not reimbursed under any other private or government plan.

? You propose to amend the Plan and the HSA such that the Participants could enrol under the Nova Scotia Senior's Pharmacare Program and in so doing, enhance their overall benefit coverage.

The particular situation in your letter relates to a factual one, involving a specific taxpayer. As explained in Information Circular 70-6R5, it is not this Directorate's practice to comment on proposed transactions involving specific taxpayers other than in the form of an Advance Income Tax Ruling. Should your situation involve a specific taxpayer and a completed transaction, you should submit all relevant facts and documentation to the appropriate Tax Services Office for their views. However, we are prepared to provide the following general comments.

As stated in paragraph 4 of Interpretation Bulletin IT-339R2, Meaning of "private health services plan", coverage under a PHSP must be in respect of hospital care or expense or medical care or expense which normally would otherwise have qualified as a medical expense under the provisions of subsection 118.2(2) of the Act in the determination of the medical expense tax credit. Paragraph 118.2(2)(q) provides that any premium, contribution or other consideration that the individual or his or her legal representative has paid under a private health services plan for that individual, the individual's spouse or a member of the household with whom the individual is connected by blood relationship, marriage or adoption may be included as a qualifying medical expense.

We are advised that the Nova Scotia Senior's Pharmacare Program ("NSSPP") is a provincial drug insurance plan that helps seniors with the cost of their prescription drugs. Seniors are not obligated to join the program, and not every senior is eligible to join. At present, the program is offered to Nova Scotia residents who;

? are registered under the Medical Services Insurance (MSI) program,

? are 65 years of age or older and

? do not already have prescription drug coverage through a private benefit plan, Veterans Affairs Canada or First Nations and Inuit Health Services.

We are further advised that the Nova Scotia Formulary details which drugs and supplies are benefits under the NSSPP. A doctor, dentist, authorized optometrist, or authorized nurse practitioner must prescribe the drugs and supplies and the prescription must be filled by a Nova Scotia pharmacy. The said drugs and supplies would appear to meet the description in paragraph 118.2(2)(n). We are also advised that the NSSPP is not a plan established by the law of the province to provide for insured health services under the Canada Health Act. As such, the program appears to meet the definition of a PHSP under subsection 248(1) of the Act.

Therefore, we agree that premiums paid and prescription co-payments made to the NSSPP are qualifying medical expenses pursuant to paragraph 118.2(2)(q). If the program is ever modified to

include coverage for disbursements which are not qualifying medical expenses pursuant to subsection 118.2(2), the premiums paid and prescription co-payments made to the NSSPP would no longer qualify under paragraph 118.2(2)(q). None of the comments made in this letter relates to whether the benefit plan or the HSA of Opco, as described or amended, qualifies as a PHSP.

These comments represent our opinions of the law as it applies generally, and as indicated in paragraph 21 of Information Circular 70-6R5, are not binding on the Department. Nevertheless, we hope that our comments will be of assistance to you.

Robin Maley  
Section Manager  
For Division Director  
Business and Partnerships Division  
Income Tax Rulings Directorate  
Legislative Policy and Regulatory Affairs Branch