

DISCLAIMER AS TO TAX STATUS OF *Critical*ADVANTAGE™



The following comments are based on federal income tax legislation (contained in the Income Tax Act) as currently enacted and our understanding of related assessing positions and administrative practices of the Canadian Customs and Revenue Agency as at November 20, 2002. These comments are of a general nature only and are not intended to be exhaustive of all possible tax implications under all circumstances. It should not be construed as constituting specific legal or professional tax advice to current or potential policyholders.

Critical illness (CI) insurance policies, including CriticalAdvantage (CA), may qualify as private health services plans (PHSP), as defined in Subsection 248(1) of the Act. CCRA's administrative position on the "meaning of private health services plan" is set out in Interpretation Bulletin IT-339. IT-339 explains that coverage under a plan must be for expenditures that would normally otherwise be eligible for purposes of claiming the Medical Expense Tax Credit (as outlined in IT-519). Most of the benefits of coverage contemplated under Critical Advantage would be eligible medical expense tax credit expenditures as outlined in IT-519 but certain incidental, optional or ancillary benefits of coverage might not so qualify. It is therefore uncertain whether CCRA would consider CA, on the whole, to meet the definition of a PHSP. If CA were to meet the PHSP definition, the premiums paid by individual policyholders would be tax creditable medical expenses (under paragraph 118.2(2)(q)) and/or would be eligible to be paid out of Health Care Spending Accounts. Also, if CA were to qualify as a PHSP, premiums paid by employers on behalf of their employees would be received as non-taxable fringe benefits in the employees' hands. Similar premiums paid by employers would be tax deductible to the employer under subsection 20.01 (1)

If CA does not qualify as a PHSP, in situations where an employer sponsors coverage for a group of employees, the policies might collectively be considered by CCRA to constitute a "group accident and sickness insurance plan". In this case, the value of the premiums would not be considered taxable to the employees under paragraph 6(1)(a).

In any case, premiums paid by employers to provide CA coverage to their employees should be deductible to the employer as a reasonable outlay (employee compensation expense) to earn business income under paragraph 18(1)(a).

In the normal course disbursements made to third party service providers, including medical practitioners, under policy coverage should not be considered earned income taxable to policyholders.

Transamerica Life Canada does not express any opinion as to whether CCRA would assess on the basis that CA meets the definition of a Private Health Services Plan or whether individual policies issued to groups of employees with premium funding by an employer would be considered a group accident or sickness insurance plan. Policyholder and plan sponsors are also cautioned that HST/GST, provincial retail sales tax (RST) and provincial premium tax may be excised on arrangements considered to constitute group insurance plans.

Because of the uncertainty around taxation of policy amounts under unique fact patterns that may vary among policyholders and/or employer plan sponsors, taxpayers are encouraged to consult their independent tax advisors to determine the appropriate filing basis for reporting premiums payments and benefits received under Critical Advantage on their individual or corporate tax returns.

Note:

Employer sponsored means "any arrangement whereby an employer pays any premium amount in whole or any portion thereof in respect of a policy for which any of its employees and/or shareholders is the policyholder entitled to benefits under the policy coverages".