

# P.R. GUPTA & CO.

## CHARTERED ACCOUNTANTS

November 29, 2020

### ‘DEDUCTION FOR MEDICAL TREATMENT UNDER INCOME TAX’

**By CA Pankaj Gupta, FCA, FCS**

*“A simple provision for claiming deduction for medical treatment is not so simple to understand. Various intricacies which arises have been discussed in this Article”*

#### **I. Preamble:**

Deduction from taxable income in respect of Medical Expenditure or Medical treatment. If one goes through the various intricacies involved therein, one will realise that it is not so simple as it looks. In this article, I will discuss various deductions available to a Tax-payer for expenditure incurred in respect of health of a Tax-Payer himself or his family or parents. There are situation when deduction is available even without incurring any expenses.

#### **II. Deduction under Section 80 D :**

The first and foremost deduction is under section 80 D of the Income Tax Act, 1961. This deduction is given from the Gross Total Income of the Assessee. We shall discuss relevant provisions as applicable for Financial Year 2019-20 relevant to AY 2020-21. Broadly speaking, Tax-Payer can claim deduction for himself, for his family and for his parents.

Medical Insurance paid to an approved Insurance Company on the health of self or family or any of parent can be claimed. Expenditure on Preventive health check up of self, family or parent is also covered. Further Medical Expenditure incurred on the health of a Tax Payer who is a senior citizen during the year or on the health of any of the parent who is a senior citizen can also be claimed.

The payment of premium or medical expenses should have been made during the financial year. i.e 1/04/2019 to 31/03/2020. However as a special relaxation this year due to pandemic, the payment made during 1/4/2020 to 31/07/2020 will also be considered.

### Summary of Deductions:

<b>Category of Tax-Payer</b>	Insurance Premium Self or family (Max)- Including Preventive Health check-up	Medical Expenses on self or family if no Mediclaim (Max)	<b>Overall Limit- for self/family (2+3)</b>	Med. Insurance of Parent (Max) Including Preventive Health check-up	Medical Exp. of Parent who is Senior Citizen & no Ins.	<b>Overall Limit for Parents (5+6)</b>
(1)	(2)	(3)	(4)	(5)	(6)	(7)
<b>Tax-Payer is Non-Sr. Citizen &amp; both parents are Non-Sr Citizen.</b>	25000	0	<b>25000</b>	25000	0	<b>25000</b>
<b>Tax-Payer is Non-Sr. Citizen &amp; any of parent is Sr Citizen.</b>	25000	0	<b>25000</b>	50000	50000	<b>50000</b>
<b>Tax Payer is Sr. Citizen and any parent is Sr. Citizen</b>	50000	50000	<b>50000</b>	50000	50000	<b>50000</b>



**Points to be noted.**

1. Medical Insurance Premium should not have been paid in Cash
2. Certificate for claiming deduction under section 80D should be obtained from Insurance Company
3. Preventive Health Check-up Expenses up to Rs. 5000 can be in Cash and includible in Limit of Rs. 25,000 / 50,000
4. Medical Expenditure for self/family/parents should not be in cash and only through banking mode.
5. Medical Expenses can be claimed by a Tax Payer who is a Sr. citizen or for a parent who is Sr. citizen and only if no amount is paid for Insurance for whom medical expenses being claimed.
6. Family means -Spouse and dependent children
7. A parent need not be dependent parent
8. Amount should have been paid during the year out of income chargeable to tax
9. Even if Husband has claimed Medical Expenses for self/spouse/family and Parents who are Senior citizens, Wife can also claim separately for herself /spouse/family and her parents who are Senior Citizens.
10. A Tax-Payer can claim Medical expenditure for parent who is a senior citizen and no insurance is paid for him and also the parent himself can also claim the deduction for his medical expenses.



- 11.If Insurance is paid in lump-sum for more than one year, then it will be allowed on proportionate basis. The fraction for proportion shall be ascertained by placing numerator as one and denominator as the number of relevant previous years for which insurance has been paid. Relevant previous years means the previous year beginning with the previous year in which such amount is paid and the subsequent previous year or years during which the insurance shall have effect or be in force.
- 12.Any contribution made to the Central Government Health Scheme or such other scheme as may be notified by the Central Government in this behalf shall also qualify along with Insurance Premium.
- 13.Where the assessee is a Hindu undivided family, it shall be the aggregate of the following, namely:—
- (a) amount paid to effect or to keep in force an insurance on the health of any member of that Hindu undivided family up to twenty-five thousand rupees; and
  - (b) amount paid on account of medical expenditure incurred on the health of any member of the Hindu undivided family who is a senior citizen and does not exceed in the aggregate fifty thousand rupees and no insurance has been paid on the health of that senior citizen.:



14. It is not necessary the assessee is a “Resident” as per Section 6 of Income Tax Act, 1961.

**Important issues:**

***1) Whether GST paid along with premium shall be allowed for deduction?***

Answer is Yes. The wordings mentioned in the Section 80D are ‘the whole of the amount paid to effect or to keep in force an insurance on the health of the assessee. No where it is qualified that only ‘Premium’ paid will be allowed. Therefore GST paid should be allowed.

***2) Can the payment for health Insurance made during 1st April,2020 to 31st July,2020 can be for a policy which is starting after 1st April,2020?***

The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) , Act, 2020 has provided that the payments made between 1<sup>st</sup> April,2020 to 31<sup>st</sup> July, 2020 will also be considered. The payment can also be for a policy which is for a financial year starting on or after Ist April, 2020.

***3) A question arises that what will happen if a person is insured under CGHS/ECHS or eligible to claim reimbursement from***



***Government or a Government department or a private employer or covered under ESI?***

To avail benefit of medical expenditure, it is specified that no payment has been made for Insurance on the life of a person for whom medical expenses are being claimed. Sub-section (5) of section 80D prescribes that the insurance referred to in this section shall be in accordance with a scheme made in this behalf by—

(a) the General Insurance Corporation of India formed under section 9 of the General Insurance Business (Nationalisation) Act, 1972 and approved by the Central Government in this behalf; or

(b) any other insurer and approved by the Insurance Regulatory and Development Authority established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 .

Since CGHS etc are not Insurer who are approved under IRDA, therefore a person can claim the medical expenditure even if he is eligible for Medical reimbursement from CGHS etc. Only point is that expenditure can be claimed which has not been reimbursed.

***4) What constitute Medical Expenditure ?***

This term ‘Medical Expenditure’ has not been defined in Section 80D. Therefore it will be understood in general. All expenses of



Medicines, Lab Test, Doctors fees and hospital expenses will be covered. The debatable part will be expenses of Nurse/attendant especially where the patient is very old or disabled and doctors have recommended the same.

**5) *What is covered under ‘Preventive Health Check-up’?***

Again this is not prescribed or defined. But this should include, Doctor visit for preventive health check up and Laboratory tests prescribed by Doctors. However this would not include expenses for treatment of known disease.

**6) *Who are Dependent Children ?***

Again this is not defined under this section. But “Dependent” is defined in section 80DD. There it simply specify that “Dependent” means the person is wholly or mainly dependent for Maintenance and support. So this becomes a bit subjective. Insurance Companies normally do not cover a male child who crosses 25 years. Though there is no such restriction in the case of female child. One aspect can be that as long as Insurance has been paid for a child it is claimable since for parents children will always remain dependent on them in certain ways even if they are earning separately.



**7) *Family Floater ?***

In case of a family floater where parent are also covered, the premium is not apportioned between self, family and parents. Therefore if one of the person covered in the policy is a senior citizen, the premium up to 50,000 will be allowable.

**8) *In case proposer is different than Payer of policy ?***

The receipt of Insurance and certificate of deduction is issued in the name of 'Proposer' of Insurance policy. Normally the payment can be made by the "proposer" only. However it is possible that payment is made by husband for a policy where proposer is wife. Now as per Income Tax, the deduction should be available to Husband since he has paid the insurance and it is on the health of spouse.

**III. Deduction under Section 80 DD :**

This deduction is available in respect of maintenance, medical treatment of a dependent who is a person with disability.

**The following points may be noted.**

- 1) Assessee or Tax-Payer can be individual or HUF
- 2) Assessee should be "Resident" in India





- 3) Assessee should have incurred any expenditure for the medical treatment (including nursing), training and rehabilitation of a dependant, being a person with disability
- 4) Assessee can also claim the deduction if he has paid or deposited any amount under a scheme framed in this behalf by the Life Insurance Corporation or any other insurer or the Administrator or the specified company subject to the conditions specified in sub-section (2) and approved by the Board in this behalf for the maintenance of a dependant, being a person with disability. However if the dependent pre-deceases the assessee, then claim from Insurance becomes taxable in the hand of assessee.
- 5) Unlike Section 80D, the expenses can also be in cash.
- 6) "dependant" means—
  - (i) in the case of an individual, the spouse, children, parents, brothers and sisters of the individual or any of them;
  - (ii) in the case of a Hindu undivided family, a member of the Hindu undivided family, dependant wholly or mainly on such individual or Hindu undivided family for his support and maintenance,
- 7) Dependent person should not have claimed any deduction under section 80U in computing his total income for the assessment year relating to the previous year;
- 8) "disability" includes “Blindness”, “Low vision”, Hearing impairment’ “Mental illness”, "autism", "cerebral palsy" and "multiple disability" referred to in clauses (a), (c) and (h) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.



However 'Disability' is more elaborately defined in clause (i) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

It may be noted that "Cancer" is not considered a disability. However it is a "Specified disease" and deduction can be claimed under section 80DDB

- 9) The assessee, claiming a deduction under this section, shall furnish a copy of the certificate issued by the medical authority in the prescribed form 10-IA under Rule 11A(2), along with the return of income.

### **Quantum of Deduction:**

A deduction of Rs. 75,000 is allowed. However in case of 'Severe Disability' deduction of Rs. 1,25,000 is allowed.

### **Important issue:**

The section or Act does not specify that the assessee can claim deduction based on the expenditure incurred. It merely states that any amount has been spent. It is flat deduction once the assessee incurs some expenses, deduction is available of full Rs. 75,000/1,25,000.

## **IV. Deduction under Section 80 DDB :**

This deduction is available in respect of medical treatment for 'Specified Disease'.

### **The following points may be noted.**

- 1) Assessee or Tax-Payer can be individual or HUF



- 2) Assessee should be “Resident” in India
- 3) Deduction is available to an individual for treatment of specified disease for self or dependent. It is also available to HUF for treatment of specified disease of any member of a HUF who is dependent.
- 4) Dependent has the same meaning as explained in 80DD above.
- 5) The deduction here is linked to actual expenses incurred. However the expenses can be in cash also.
- 6) No form needs to be filed along with income tax return
- 7) The medical expenses can be in cash also.
- 8) The assessee is required to obtain the prescription for such medical treatment from a neurologist, an oncologist, a urologist, a haematologist, an immunologist or such other specialist, as may be prescribed. This is explained in point below.
- 9) ‘Specified Disease’ and ‘Doctors’ who can issue prescription are specified in Rule 11DD. Broadly following will need to be complied,
  - i. Neurological disease where disability level is certified as 40% or above and prescription is by a Neurological specialist having Doctorate of Medicine (D.M) in Neurology or any equivalent degree
  - ii. Malignant Cancers and prescription is by a Oncologist specialist having Doctorate of Medicine (D.M) in Oncology or any equivalent degree
  - iii. AIDS and prescription is by any specialist having post-graduate degree in general or internal medicine or any equivalent degree



- iv. Chronic Renal failure and prescription is by a Nephrologist specialist having Doctorate of Medicine (D.M) in Nephrology or a Urologist having a Master of Chirurgiae (M.Ch) or any equivalent degree
  - v. Hematological disorders and prescription is by any specialist having Doctorate of Medicine (D.M) in Hematology or any equivalent degree
- 10) However where the patient is receiving the treatment in a Govt. hospital, the prescription can be issued by any specialist working full-time in that hospital and having post-graduate degree in General or internal Medicine or any equivalent degree.

### **Quantum of Deduction:**

Deduction of actual amount spent is allowed up to a maximum of Rs. 40,000. However in case the person with specified disease is a senior citizen, then deduction upto Rs.1,00,000 is allowed.

However the deduction under this section shall be reduced by the amount received, if any, under an insurance from an insurer, or reimbursed by an employer, for the medical treatment of the person above.

### **V. Deduction under Section 80 U:**

This deduction is available to assessee himself having disability. The deduction is more or less similar to Section 80DD deduction where it claimed by an assessee for treatment of a 'Dependent'. Here it is claimed by the person himself having disability. In fact it is specified in section 80DD that if deduction is claimed under section 80U by the person having disability then it cannot be claimed under 80DDB for the same person.



**The following points may be noted.**

- 1) Assessee or Tax-Payer can be individual
- 2) Assessee should be “Resident” in India
- 3) There is no need to spend any amount for claiming the deduction.
- 4) Disability and severe disability are same as explained in section 80DD above
- 5) Form 10-IA needs to be filed as also in the case of Section 80DD explained above.

**Quantum of Deduction:**

A deduction of Rs. 75,000 is allowed. However in case of ‘Severe Disability’ deduction of Rs. 1,25,000 is allowed.

**VI. Conclusion:**

These are beneficial provisions for the assessee and they should be devoid of these complexities. Otherwise even a genuine Tax Payer can miss out on various compliances which are very intricate to understand. CBDT should clarify on contentious issues. However, it is accepted position in Law that CBDT circulars and rules cannot over-ride any statutory provision or intentions of the legislature. The rules and circulars can be only for smooth



implementation of the Act. One more thing to be noted is that since these deductions are of beneficial purposes of the tax payer, benefit of doubt of interpretation will always be in favour of the Assessee.

### **ABOUT AUTHOR:**

Author is a Fellow Member of the Institute of Chartered Accountants of India (ICAI) and also Fellow Member of The Institute of Company Secretaries of India (ICSI). Author is doing CA practice and has more than 40 years of experience. He is a former Senior Vice-President of Noida Management Association, Former Chairman of Noida Chapter of the ICSI and Former Secretary of Noida Branch of ICAI.

### **DISCLAIMER:**

*(These are authors' personal views for educational purposes and reader is advised to consult his Consultant/Adviser in case of any clarification or further guidance. No portion of this Article can be quoted or reproduced or used in any manner for any purpose without permission of author. No responsibility can be attributed to the author in any manner.)*

\*\*\*\*\*END\*\*\*\*\*

