

J. Y. Interpretation No.473 (January 29, 1999) *

ISSUE: Is it unconstitutional to calculate premiums payable under the National Health Insurance program according to an insured amount table prescribed by the authority in charge?

RELEVANT LAWS:

Articles 8, 18, 21, Paragraph 1, and 22, Paragraph 1, Subparagraph 3 and Paragraph 3 of the National Health Insurance Act (全民健康保險法第八條、第十八條、第二十一條第一項、第二十二條第一項第三款、第三項); Article 41, Paragraph 1, Subparagraph 4, of the Enforcement Rules of the National Health Insurance Act (全民健康保險法施行細則第四十一條第一項第四款) .

KEYWORDS:

national health insurance (全民健康保險), the insured payroll-related amount (被保險人之量能負擔), Insured Salary Grading Table of Labor Insurance (勞工保險投保薪資分級表) .**

HOLDING: According to Article 18 of the National Health Insurance Act, the premium payable by the insured and their dependents in Categories 1

解釋文：全民健康保險法第十八條規定同法第八條所定第一類至第四類被保險人及其眷屬之保險費，依被保險人之投保金額及其保險費率計算

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through 4 referred to in Article 8 of the same Act shall be calculated according to the insured payroll-related amount and the premium rate of the insured. This premium is compulsory, in order to ensure smooth operation of the National Health Insurance system, and therefore is one type of monetary payment under public laws. The rate for the said premium, being shared-payment by nature, is reviewed and determined after actuarial study based on expected loss ratio. In principle, in considering the said premium rate the amount should be sufficient to make up for all expenditures regarding benefits payment by the State. To attain fairness in terms of financial capability-based cost-bearing, the premium for the National Health Insurance, which is a type of social insurance, differs according to the income of the insured. For the purpose of simplification, the insured payroll-related amount applicable is also reasonably calculated according to the category of the insured. Hence Article 21, Paragraph 1, of the National Health Insurance Act authorizes the competent authority to set a grading table for the insured payroll-related

之。此項保險費係為確保全民健康保險制度之運作而向被保險人強制收取之費用，屬於公法上金錢給付之一種，具分擔金之性質，保險費率係依預期損失率，經精算予以核計。其衡酌之原則以填補國家提供保險給付支出之一切費用為度，鑑於全民健康保險為社會保險，對於不同所得者，收取不同保險費，以符量能負擔之公平性，並以類型化方式合理計算投保金額，俾收簡化之功能，全民健康保險法第二十一條第一項乃規定授權主管機關訂定被保險人投保金額之分級表，為計算被保險人應負擔保險費之依據。依同法第二十二條第一項第三款及第三項規定專門職業及技術人員自行執業而無固定所得者，其投保金額由該被保險人依投保金額分級表所定數額自行申報。準此，全民健康保險法施行細則第四十一條第一項第四款規定，專門職業及技術人員自行執業者，其投保金額以分級表最高一級為上限，以勞工保險投保薪資分級表最高一級為下限，係基於法律規定衡量被保險人從事職業之性質，符合母法授權之意旨，與憲法保障財產權之旨趣，並不違背。

amount applicable, as a calculation base of the premium to be contributed by the insured. Article 22, Paragraph 1, Subparagraph 3, and Paragraph 3 of the same Act provide that, to join the National Health Insurance program, independently practicing professionals and technicians with no stable income shall select the insured payroll-related amount applicable from the Grading Table. Accordingly, Article 41, Paragraph 1, Subparagraph 4, of the Enforcement Rules of the National Health Insurance Act sets, for the insured payroll-related amount applicable to independently practicing professionals and technicians, the maximum equal to the highest level prescribed in the Grading Table, and the minimum equal to the highest level of the Insured Salary Grading Table of Labor Insurance. This enforcement rule takes into consideration the occupation type of the insured, as prescribed by laws, and therefore conforms to the intention of authorization by the parent law and does not contradict the Constitution regarding the purpose of property right protection.

REASONING: To ensure the smooth operation of the National Health Insurance system, the premium for the National Health Insurance is a compulsory one, making it a type of monetary payment under public laws, and it therefore is shared-payment by nature. According to Article 18 of the National Health Insurance Act, the premium payable by the insured and their dependents in Categories 1 through 4 referred to in Article 8 of the same Act shall be calculated according to the insured payroll-related amount and the premium rate of the insured. For the purpose of public interest, a State establishes various institutions and, to maintain functions thereof, requests payments from and to be shared by the beneficiaries. Beneficiaries contribute and share such payment to obtain the opportunity of receiving benefits payment from the State; they are not receivers who have already realized such benefits payment. Therefore, the principle behind receipt of the shared-payments by the State is for the purpose of attaining a balance between benefit and burden. As it is impossible to determine exactly the opportunity to re-

解釋理由書：全民健康保險之保險費係為確保全民健康保險制度之運作而向被保險人強制收取之費用，屬於公法上金錢給付之一種，具分擔金之性質。依全民健康保險法第十八條規定，同法第八條所定第一類至第四類被保險人及其眷屬之保險費，依被保險人之投保金額及其保險費率計算之。國家因公共利益之目的而設立機構，為維持其功能而向受益者收取分擔金，由於負擔分擔金之受益者，並非事實上已受領國家之給付，僅以取得受領給付之機會為已足，是收取分擔金之原則，係以平衡受益與負擔為目的，復因受益者受領給付之機會及其價值如何，無從具體詳細確定，故唯有採用預估方式予以認定。全民健康保險之被保險人繳交保險費，係以受領國家保險給付為標的，由國家用以支應維持全民健康制度必要之費用，此項保險費率自應依預期損失率，經精算予以核計。其斟酌之原則首重損益之衡平，亦即全民健康保險給付與被保險人負擔之保險費額必須相當，以填補國家提供保險給付支出之一切費用為度。因為保險費額之確定並非與被保險人將來受領給付之多寡按比例計算，鑑於全民健康保險為社會保險，對於不同所得者，收取不同保險費，以符量能負擔之

ceive the said benefits payment and its amount, the only way is by resorting to projected estimation. The premium paid by the insured to National Health Insurance is for potential receipt of benefits payment from the State, and is used for expenses to sustain operation of the National Health Insurance system. The premium rate for the National Health Insurance, therefore, should naturally be determined by actuarial study based on expected loss ratio. In principle, the balance between revenue and expenditure takes priority in considering the said premium rate. As benefits payment under the National Health Insurance shall be equal to the premium payable by the insured, making up for all expenditures regarding benefits payment by the State shall be fundamental. The said premium is not determined in proportion to potential benefits payments for the insured. The National Health Insurance is social insurance, and prescribes payroll-related premiums to achieve fairness in terms of cost-bearing capability. Given the vast dissimilarity between income and affordable premium among the insured sub-

公平性，並顧及被保險人相互間之收入及負擔能力差距甚大，決定保險費時不可能精確考量各被保險人不同的實力，爰以類型化方式合理計算投保金額，俾收簡化之功能。全民健康保險法第二十一條第一項乃規定授權主管機關訂定被保險人投保金額之分級表，為計算被保險人應負擔保險費之基礎。依同法第二十二條第一項第三款規定，專門職業及技術人員自行執業之被保險人以其執行業務所得為投保金額。同條第三項復規定上開被保險人為無固定所得者，其投保金額，由該被保險人依投保金額分級表所定數額自行申報，並由保險人查核；如申報不實，保險人得逕予調整。準此，全民健康保險法施行細則第四十一條第一項第四款規定：「僱用被保險人數二十人以上之事業負責人及會計師、律師、建築師、醫師、牙醫師、中醫師自行執業者，按投保金額分級表最高一級申報。但其所得未達投保金額分級表最高一級者，得自行舉證申報其投保金額，最低不得低於勞工保險投保薪資分級表最高一級。」其立法意旨係依全民健康保險制度之功能，經預估有關費用之需求，精算保險費率，核計各該被保險人之投保金額，乃基於法律規定衡量被保險人從事職業之性質而為，符

scribing to National Health Insurance, it is impossible to take into consideration the precise financial capability of all the insured. For the purpose of simplification, therefore, the insured payroll-related amount applicable is reasonably calculated according to the category of the insured. Accordingly, Article 21, Paragraph 1, of the National Health Insurance Act authorizes the competent authority to set, as a calculation base of premium to be contributed by the insured, a grading table for the insured payroll-related amount applicable. Article 22, Paragraph 1, Subparagraph 3, and Paragraph 3 of the same Act provide that, for independently practicing professionals and technicians to subscribe to the said insurance, the insured payroll-related amount applicable shall be determined by income from professional practices and subject to examination by the insurer, which may make adjustment at its own discretion if the insured payroll-related amount is found inappropriate. Accordingly, Article 41, Paragraph 1, Subparagraph 4, of the Enforcement Rules of the National Health Insurance Act stipulates: “The person in

合母法授權之意旨，與憲法保障財產權之旨趣，並不違背。

charge of a business employing more than twenty insured, and accountants, lawyers, architects, doctors, dentists, and Chinese herbal doctors who are practicing independently may subscribe to coverage according to the highest level of the Insured Amount Grading Table; provided those whose income does not reach the highest level of the Table may subscribe according to the amount claimed with proof but not be lower than the highest level of the Insured Salary Grading Table of Labor Insurance.” The legislative intention is to estimate the relevant expenditure requirement according to functions of the National Health Insurance, actualize premium rates, and set various insured payroll-related amounts applicable. The aforesaid is based on the statute and takes into consideration the occupation type of the insured, and therefore conforms to the intention of the parent law authorization and does not contradict the Constitution regarding the purpose of property right protection.