

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

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Person to Contact:

Telephone Number:
(202) 622-4920

Refer Reply To:
CC:DOM:IT&A:2 – COR-107520-00
Date: May 18, 2000

Dear Mr. [REDACTED]:

This is in response to your letter dated March 19, 2000, requesting a special exception to cover nonprescription sunglasses. In an attachment to your letter, your optometrist stated that you need to wear sunglasses over your rigid contact lenses when you are outdoors in daylight because you have a congenital retina condition that makes your eyes very intolerant of light. Your Flexible Spending Account (FSA) administrator refused to honor your claim, stating that under Internal Revenue Service guidelines, nonprescription sunglasses are not eligible expenses.

Since you did not request a letter ruling under the procedures set forth in Rev. Proc. 2000-1, 2000-1 I.R.B. 4, we are able to provide only general information that should not be construed as a final determination by the Internal Revenue Service of this matter.

An FSA, also referred to as a flexible spending arrangement, in general is a benefit program that provides employees with coverage under which specified, incurred expenses may be reimbursed (subject to reimbursement maximums and any other reasonable conditions). The maximum amount of reimbursement that is reasonably available to a participant in an FSA cannot be substantially in excess of the total premium of the participant's coverage. An FSA may include among its program of benefits a requirement that medical and dental expenses will be reimbursed if they are expenses that would be deductible under the Internal Revenue Code.

Section 213(a) of the Internal Revenue Code allows a deduction for expenses paid during the taxable year, not compensated for by insurance or otherwise, for medical care of the taxpayer, a spouse, or a dependent, to the extent that those expenses exceed 7.5 percent of the taxpayer's adjusted gross income. Section 213(d)(1)(A) defines "medical care" to include amounts paid for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body. Section 1.213-1(e)(1)(ii) of the Income Tax Regulations further states that medical care under § 213 is strictly limited to expenses incurred primarily for the prevention or alleviation of a physical or mental defect or illness. An expenditure that is merely beneficial to the general health of an individual is not for medical care and, therefore, is a nondeductible personal expense.

Code § 262 states that, except as otherwise expressly provided for, no deduction shall be allowed for personal, living, or family expenses. An item ordinarily used for

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personal, living, or family purposes will be recognized as an item purchased primarily for medical care in the absence of objective evidence of such primary purpose only if it is readily apparent that it prevents or alleviates a disease or disability. Rev. Rul. 76-80, 1976-1 C.B. 71.

There are numerous instances in which items that are ordinarily used for personal, living, or family purposes but were nonetheless found to constitute a valid medical expense deduction. For example, in Rev. Rul. 58-8, 1958-1 C.B. 154, a medical expense deduction was allowed for an "autoette," a small three-wheel vehicle used primarily to alleviate the individual's sickness or disability, and not merely to provide transportation between his residence and place of employment. Rev. Rul. 55-261, 1955-1 C.B. 307 held that a deduction under § 213 was permissible for the cost of a special mattress and plywood boards needed for the relief of an arthritic condition. The cost of a reclining chair acquired for the purpose of obtaining the maximum and optimum of rest by a taxpayer with a cardiac condition was found to qualify as a medical expense in Rev. Rul. 58-155, 1955-1 C.B. 156.

We hope this information is helpful. Please contact [REDACTED], Identification Number [REDACTED], at (202) 622-4920, if we may be of further assistance.

Sincerely,

Deputy Assistant Chief Counsel
(Income Tax & Accounting)

By _____
Robert A. Berkovsky
Chief, Branch 2