



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF THE CHIEF COUNSEL

February 16, 2011

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Dear _____ :

I am responding to your letter dated November 22, 2010, to Commissioner Douglas Shulman about the treatment of costs associated with breast pumps and related supplies. You request that we reconsider our decision to deny reimbursement for the cost of breast pumps and related supplies under a flexible health spending account.

After reviewing the matter, we concluded that breast pumps and supplies that assist lactation are medical care under section 213(d) of the Internal Revenue Code (the Code) because they are for the purpose of affecting a structure or function of the body of a lactating woman. Therefore, if taxpayers meet the remaining requirements of section 213(a) of the Code, expenses they paid for breast pumps and supplies that assist lactation are deductible medical expenses. These expenses will qualify as medical care expenses reimbursable under a flexible health spending account.

We included these conclusions in Announcement 2011-14, which will be published in Internal Revenue Bulletin 2011-8. The next revision of Publication 502, Medical and Dental Expenses, will also include this information.

I hope this information is helpful. If you have any questions, please contact me or
at

Sincerely,

Thomas D. Moffitt
Branch Chief, Branch 2
Office of Associate Chief Counsel
(Income Tax & Accounting)