



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

OFFICE OF THE CHIEF COUNSEL

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Dear _____ :

This responds to your letter dated December 13, 2012, requesting information on the tax treatment of expenses for radon testing and mitigation. In particular, you ask whether indoor radon testing and mitigation costs are expenses for medical care under § 213(d) of the Internal Revenue Code and therefore are eligible for reimbursement under health savings accounts and flexible savings arrangements. You state that exposure to radon gas poses a significant health risk and that making radon testing and mitigation costs eligible for reimbursement has great potential for reducing the number of radon-related cancers.

Section 213(a) provides a deduction for expenses paid for medical care of the taxpayer, spouse, or dependent, to the extent the expenses exceed 10 percent of adjusted gross income. Section 213(d)(1)(A) defines "medical care" as amounts paid for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting a structure or function of the body.

While we understand the importance of residential radon testing, abatement, and mitigation, we do not currently have a published position that treats radon testing and mitigation costs as medical care under § 213(d). However, we plan to address this issue in proposed regulations under § 213. These proposed regulations are a project on the Department of the Treasury's 2012-2013 Priority Guidance Plan and, as such, are a priority for the Internal Revenue Service that we are actively working.

We appreciate the valuable input of stakeholders such as the
. We understand that this issue is a high priority for your office and we look
forward to helping resolve the treatment of radon remediation expenses through
publication of proposed regulations under § 213. Please contact _____ at
_____ or me at _____ if we can assist you further.

Sincerely,

Andrew J. Keyso
Associate Chief Counsel
(Income Tax & Accounting)