IRS Announcement 2021-7: PPE as Qualified Medical Expense

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In Announcement 2021-7 issued on March 26, 2021, the IRS announced that amounts paid for personal protective equipment (PPE) for the primary purpose of preventing transmission of COVID-19, including masks, hand sanitizer and sanitizing wipes, are treated as amounts paid for medical care under Section 213(d) of the Internal Revenue Code of 1986, as amended (Code). As a result, amounts that an individual taxpayer paid for PPE for the taxpayer and his or her immediate family that are not reimbursed by insurance or otherwise are deductible under Section 213(a) of the Code, provided that the taxpayer's aggregate medical expenses exceed 7.5% of adjusted gross income.

As expenses for medical care under Section 213(d), these PPE amounts are also eligible to be paid or reimbursed under health flexible spending arrangements (FSAs), health reimbursement arrangements (HRAs), health savings accounts (HSAs) or Archer medical savings accounts (Archer MSAs). Of course, if a PPE amount is paid or reimbursed under an FSA, HRA, HSA or Archer MSA, it will not be eligible for deduction by the taxpayer.

Group health plans, including FSAs and HRAs, may be amended to provide for reimbursement of PPE expenses incurred on or after January 1, 2020. The amendment may be retroactive if the plan has been operated consistent with its terms and the amendment is adopted no later than the last day of the first calendar year beginning after the end of the plan year in which the change is effective. However, no retroactive amendment may be adopted after December 31, 2022. In other words, to adopt an amendment allowing reimbursement of PPE by an FSA or HRA beginning January 1, 2021, the plan must have been operated to provide for such reimbursements of PPE amounts throughout 2021, and the amendment must be adopted no later than December 31, 2022.

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