



HAYS COMPANIES

IRS Announces Treatment of PPE as Qualified Medical Expenses

On March 26, 2021, the IRS released [Announcement 2021-7](#) notifying of its decision to classify “amounts paid for the purchase of personal protective equipment, such as masks, hand sanitizer, and sanitizing wipes, for the primary purpose of preventing the spread of coronavirus” (i.e. “PPE”) for use by taxpayers, taxpayers’ spouses, and tax payers’ dependents as “amounts for medical care under Section 213(d)”.

Because the amounts are considered expenses for medical care under Code Section 213(d), the amounts spent are eligible to be paid or reimbursed under health FSAs, Archer MSAs, HRAs, or HSAs. An amendment to customers’ foregoing accounts (excluding Archer MSAs and HSAs) *may be required*, to the extent that the spending accounts do not allow full scope reimbursement of 213(d) qualified medical expenses (which many HRAs and health FSAs already do).

If an amendment needs to be made to accommodate for reimbursement of PPE, a Summary of Material Modification (“SMM”) should also be issued, notifying plan participants of the change. The announcement allows retroactive amendments (to the extent they are necessary) for any period beginning on or after **1/1/2020**. Under the announcement, amendments do not need to be adopted until the last day of the first calendar year, beginning after the end of the plan year in which the amendment is effective.

Some vendors have already begun reaching out to customers about a possible amendment and corresponding SMM to account for this change. Customers should be on the lookout for these communications to ensure reimbursement of PPE under their relevant accounts should they not already allow full scope reimbursement of Code 213(d) qualified medical expenses.

The Research and Compliance team at Hays Companies will continue to monitor the situation and provide important updates as they become available.

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