



COMMISSIONER

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

January 31, 2011

The Honorable Sander M. Levin  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Levin:

I am responding to your letter dated November 23, 2010, from you and your colleagues requesting that we review our position that the costs of breast pumps and other breastfeeding supplies do not qualify as medical care expenses reimbursable under a flexible health spending account.

After reviewing this matter, we have 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 the 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 will include these conclusions in Announcement 2011-14, which we will publish 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, and thank you for taking the time to write on this important matter. I am sending your colleagues a similar letter. If you have any questions, please contact me or have your staff contact Floyd Williams, Director, Legislative Affairs, at (202) 622-4725.

Sincerely,

Douglas H. Shulman