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Correction of Health FSA Payments

The IRS recently released, CCA 201413006, which is an IRS Chief Counsel Advice memorandum. It is informal guidance only.

This CAA addresses correction procedures for improper health FSA payments. It provides that the correction procedures for debit cards in the proposed cafeteria plan regulations may be applied to any improper health FSA payment. In applying these procedures, an employer may contract with a third party administrator to perform the correction procedures. The CCA also provides that improper payments can be reported as income to the employee, but only as a last resort, and only after applying the proper debit card procedures first. If an employer reports income numerous times as a result of improper payments, such reporting would tend to show that the employer's health FSA is not applying the proper substantiation procedures. Last, any reporting of income to the employee must be on a Form W-2, and not a Form 1099 as many employers have used in the past.

Link to Memo