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NOVEMBER 14, 2011

Transgender Medical Expenses

Many employer health plans have started paying for hormone therapy, sex reassignment and other gender identity expenses. In prior years, the issue has been whether these services are medical expenses under Code Section 213, and thereby could be provided tax-free to participants. In 2006, IRS Chief Counsel issued an opinion providing that these expenses were not medical expenses under Code Section 213. However, in 2010, a Tax Court decision provided that in the facts of that case, the services were medical expenses under Code Section 213. Last week, the IRS issued Action on Decision 2011-03, effectively ending this almost decade-long back and forth. In the AOD, the IRS stated that it will no longer challenge these expenses, effectively treating all gender identity services as tax-free medical expenses under Code Section 213. You can read more background and the IRS decision here: http://www.irs.gov/pub/irs-aod/aod201103.pdf