

Rev. Rul. 2010-23

Section 105. -- Contributions by employer to accident and health plans; Amounts received under accident and health plans.

Revenue ruling obsolete. This ruling obsoletes Rev. Rul. 2003-102, 2003-2 C.B. 559, which provides guidance on employer reimbursements of amounts paid by an employee to purchase nonprescription medicines or drugs.

Rev. Rul. 2003-102, 2003-2 C.B. 559, holds that reimbursements by the employer of amounts expended for medicines or drugs available without a prescription are excludable from gross income under §105(b).

Section 9003 of the Patient Protection and Affordable Care Act (Affordable Care Act), Pub. L. No. 111-148 (March 23, 2010), adds § 106(f) and amends §§ 223(d)(2)(A) and 220(d)(2)(A). These sections revise the definition of medical expenses after December 31, 2010, and apply to health flexible spending arrangements, health reimbursement arrangements, Health Savings Accounts, and Archer Medical Savings Accounts. These sections provide that a medicine or a drug shall be treated as medical expenses only if such medicine or drug is prescribed (regardless of whether the medicine or drug requires a prescription). Because the definition of medical expenses has been changed, the Internal Revenue Service has concluded that the ruling position stated in Rev. Rul. 2003-102 is no longer determinative. Accordingly, Rev. Rul. 2003-102 is declared obsolete as of the effective date of section 9003 of the Affordable Care Act.

#### DRAFTING INFORMATION

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