IRS Issues Guidance Regarding Improper Payments from Health FSAs

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On March 28, the Internal Revenue Service (the ?ÃÂ£***IRS***?ÃÂ¥) released a Memorandum from the Office of the Chief Counsel of the IRS which addressed several issues regarding correction procedures to follow in the event that improper payments are made from an employee?ÃÃs health flexible spending account arrangement (?ÃÂ£***HFSA***?ÃÂ¥).?Ã¡ The following guidance was provided: (1) the correction procedures for debit cards in the proposed cafeteria plan regulations may be used to correct improper payments from HFSAs; (2) an employer may apply the correction procedures in those proposed regulations in any order, except that the employer may only forgive an improper payment from an HFSA as an uncollectible business debt after all other permissible correction methods have been attempted; and (3) if an employer does forgive an improper HFSA payment as an uncollectible business debt, the amount forgiven is to be reported as wages on Form W-2 and is subject to withholding for federal payroll taxes.?Ã¡ A copy of the Memorandum can be found **here**.