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SURPRISING NEW ALIMONY TAX RULES: What are the *Changes?*

Starting this year, alimony payments fall under new federal tax law. It is all part of the Tax Cuts and Jobs Act that was entered late 2018. The new law applies to divorces that are finalized in 2019 or modified in 2019 if the modification specifically states that the new law will apply. Divorce decrees in existence prior to 2019 will be “grandfathered” in.

Under the Tax Cuts and Jobs Act, alimony payments will no longer be tax deductible by the payor for income tax purposes through the year 2025 for divorce decrees entered after December 31, 2018. Additionally, the recipient of the money will no longer pay taxes on that income. This changes law that had been in place for decades.

What was the old rule?

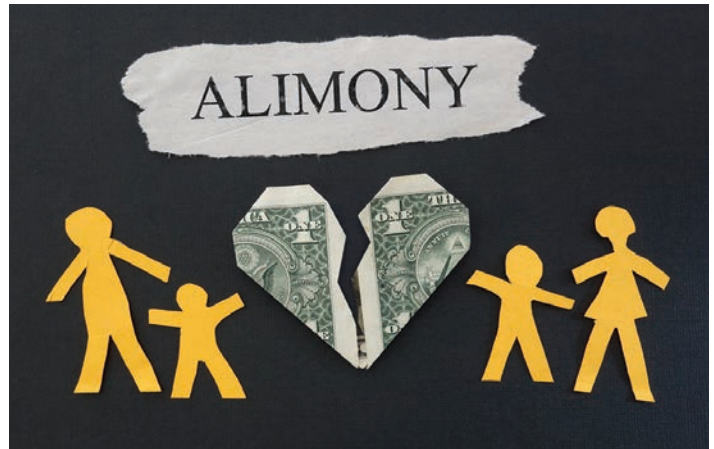
Prior to this change in federal tax law, alimony could always be deducted by the payor for federal income tax purposes and recipients of alimony payments always had to report the payments as taxable income.

Here is an example: The old alimony tax law allowed a spouse who earns \$120,000 per year and pays \$30,000 in alimony annually to only pay taxes on the remaining \$90,000 of wages. The recipient spouse, who earns \$25,000 annually, was then required to pay taxes on combined wages and alimony of \$55,000 annually. Under the new law, a similar spouse would have to pay taxes on the entire \$120,000 in earnings regardless of the \$30,000 in alimony. The receiving spouse in turn only needs to pay taxes on the wages of \$25,000.

Why does it matter?

For individuals that pay alimony, this change can be expensive. Under the old law, they would have benefited from tax savings from being able to deduct alimony payments from their income. On the other hand, if you are the recipient of alimony payments, these payments are now tax-free to you.

The new tax law shifts the tax burden from recipient of alimony to the payor of alimony. Often this is a low-income recipient and a high-income payor. The old law allowed the high-income payor to make tax deductions on their alimony payments, thereby making it more affordable for them to pay alimony. For instance, an ex-spouse who would have paid \$30,000.00 in alimony payments could deduct around \$9,900.00 from it using the Federal Tax rate of 33%. The new change eliminates affordability as the payor is required to still pay taxes on all income regardless of alimony payments.



This change has some legal professionals concerned. Even though the dollar amount of alimony received is not taxable as income, most likely the amount of alimony offered will be less because the payor has no tax savings to benefit from any longer. The payor will have less ability to pay given that the deduction is gone. One of the bargaining tools of lawyers is gone in terms of negotiating higher alimony amounts. No longer will you be able to promise the payor that alimony is deducted from income.

Final Thoughts:

Whether you are the recipient or payor of alimony, it is important to understand the new law and the implications for you. Be warned that some attorneys may not be up to speed on the changes so make sure to ask if they are aware. The lesson from this is that couples, courts, lawyers, and mediators need to be adjusting alimony in light of these changes. The whole mindset has to change. The only real winner from this change is the IRS, who will essentially charge the highest earner among both parties at the higher marginal rate. *

This article is for informational purposes only and not for the purpose of providing legal advice.

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