

What We Know

ARTICLES & INSIGHTS

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Divorce Can Be Taxing: How The 2017 Federal Tax Bill Impacts Your Family Law Decisions – Part 2

July 2, 2018 | by

Following is the second installment in a four-part blog series examining the [2017 tax overhaul](#) and the impact on divorce and what you should consider when moving forward with your family law case. ([See Part One: General Filing Status Considerations.](#))

PART 2 OF 4: ALIMONY

One of the most apparent changes in the new tax law is its treatment of [alimony](#). Starting with orders and agreements entered into after December 31, 2018, alimony is no longer a tax-deductible expense for the supporting spouse. It's also no longer considered taxable income for the dependent spouse.

On its face, this is obviously a significant departure from prior law. However, there are more profound and longer-lasting ramifications than what first meets the eye. Alimony was previously considered an "above-the-line" deduction for the paying supporting spouses. These dollar-for-dollar deductions reduce a taxpayer's adjusted gross income and can be taken regardless of whether a taxpayer uses the standard deduction or opts to itemize. The adjustments that are made above the line not only change the income that is taxed but they can impact that taxpayer's ability to take other deductions (or to what extent other deductions may be taken). A person's adjusted gross income also determines [what tax bracket they fall into](#), meaning that the loss of the alimony deduction could mean a change in a person's tax bracket, thus altering the percentage of tax they have to pay on all of their income. Bottom line – it's a big deal for a person's above the line deductions to change or go away.

In North Carolina, tax ramification is one of sixteen factors that courts consider when determining alimony cases, from the decision to make an award at all to an award's duration and amount. However, folks shouldn't necessarily be worried about knocking down the courthouse door before the New Year in order to make their payments fit under the current law. The text of the bill does not explicitly cover only court-ordered or -approved alimony awards, so as long as a separation agreement is executed by the end of the year, the terms of such an agreement can fall under the current law. The one catch

is that the language of the law also uses the term “separation agreement” as a definition analogous to divorce, so it’s unclear how the IRS may treat such agreements in the future. It’s also unclear as to whether or not negotiations and privately-entered separation agreements can circumvent the requirements under the new law.

Unlike other provisions of the new tax law, the tax deductibility (or, in this case, the lack thereof) of alimony does not expire in 2025. It’s unknown at this point how this may change in the future or if Congress will reevaluate its decision in the future.

Many thanks to Anna Claire Turpin (J.D. Candidate 2019, Campbell University Norman Adrian Wiggins School of Law) for her assistance with this post.

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