

TAX TREATMENT OF ALIMONY
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Alimony is a payment to a spouse or a former spouse made pursuant to a Court Order including a Pendente lite Order, a divorce Judgment or a separation instrument. To be considered alimony for tax purposes, the payment must meet certain requirements, which may be different depending upon the date of the Order, Judgment or separation instrument. The following commentary applies to documents executed after 1984.

A payment to or for a spouse is considered alimony if the parties do not file a joint return and (1) the payment is in cash (2) the instrument does not specifically identify the payment as non-alimony (3) the spouses are not members of the same household at the time the payments are made (4) the obligation to pay ends upon the death of the recipient and (5) the payment is not treated as child support.

Alimony includes payments made to third parties on behalf of the recipient spouse. This includes the payment of medical expenses, certain taxes, tuition, life insurance premiums (for policies owned by the spouse on the life of the obligor) as well as various housing costs. Housing costs may include rent, utilities, and home owners insurance on a home owned by the spouse.

The rules are slightly different for expenses paid for a jointly-owned home. If the obligor must pay all of the mortgage payments (principal and interest) and the home is jointly owned, then the obligor can deduct and the recipient must include as alimony one-half of the total payments. Additionally, the obligor can claim as an itemized deduction one half of the interest as interest expense (if the home is a qualified home).

Additionally, if the obligor must pay all of the real estate taxes and home insurance, and the home is held as tenants- in-common, then the obligor can deduct and the recipient must include as alimony one-half of the total payments. Additionally, the obligor can claim as an itemized deduction one-half of the real estate taxes and none of the home insurance.

If the obligor must pay all of the real estate taxes and home insurance and the home is held by tenants by the entirety or in joint tenancy, then the obligor cannot deduct any of the payments as alimony. However, the obligor can claim as an itemized deduction all of the real estate taxes and none of the home insurance.

For addition information, you can contact the IRS on the internet @ www.irs.gov or you may contact the IRS for purposes of ordering forms, instructions and publications @ (800)829-3676. All matrimonial practitioners should be familiar with Publication 504, Catalog No. 150061,"Divorced Or Separated Individuals" as published by the Department of The Treasury.