How To Know When Alimony Is Tax Deductible

By Tom Norton, CPA, CDFA

Alimony is generally tax deductible by the one who pays it, and taxable to the one who receives it. This differs from child support, which is neither deductible nor taxable.

Unfortunately, a poorly conceived or poorly written divorce agreement can turn what was intended to be tax deductible alimony into non-deductible maintenance or spousal support.

In order to qualify as tax deductible, the alimony payments must meet several criteria, as follows:

1. The payments must be ordered by a judge in a written divorce or separation decree.
2. The paying spouse and the receiving spouse cannot live in the same household.
3. The payments must be in cash or cash equivalents (i.e. check or money order).
4. The payments must be made to a spouse or former spouse.
5. Nothing in the divorce decree can say the payments are *not* alimony.
6. The paying and receiving spouses cannot file a joint tax return.
7. The payments must end on the receiving spouse's death.
8. The payments cannot be called child support, *nor deemed to be* child support under the tax code and regulations.

These eight criteria may seem straightforward enough, but over the years, there have been many questions and problems which have had to be clarified. In particular, the deemed child support rules are tricky, and even many attorneys don't know all of the rules.

There's not enough space to go into all of the details here. To find out more, check out The Divorce Financial Survival Series, which gives you full coverage of the topic, including the traps and red flags to watch out for when negotiating your settlement.

For more information:

Alimony
The Divorce Financial Survival Series