

Part I

Section 213 -- Medical, Dental, etc., Expenses

26 CFR 1.213-1: Medical, Dental, etc., Expenses.

(Also § 262; 1.262-1.)

Rev. Rul. 2002-19

ISSUE

Are uncompensated amounts paid by individuals for participation in a weight-loss program as treatment for a specific disease or ailment (including obesity) diagnosed by a physician and for diet food items expenses for medical care that are deductible under § 213 of the Internal Revenue Code?

FACTS

Taxpayer A is diagnosed by a physician as obese. A does not suffer from any other specific disease. Taxpayer B is not obese but suffers from hypertension. B has been directed by a physician to lose weight as treatment for the hypertension.

A and B participate in the X weight-loss program. A and B are required to pay an initial fee to join X and an additional fee to attend periodic meetings. At the meetings participants develop a diet plan, receive diet menus and literature, and

discuss problems encountered in dieting. A and B also purchase X brand reduced-calorie diet food items. Neither A's nor B's costs are compensated by insurance or otherwise.

LAW

Section 213(a) allows a deduction for uncompensated expenses for medical care of an individual, the individual's spouse or a dependent, to the extent the expenses exceed 7.5 percent of adjusted gross income. Section 213(d)(1) provides, in part, that medical care means amounts paid for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body.

Under § 1.213-1(e)(1)(ii) of the Income Tax Regulations, the deduction for medical care expenses will be confined strictly to expenses incurred primarily for the prevention or alleviation of a physical or mental defect or illness. An expense that is merely beneficial to the general health of an individual is not an expense for medical care. Whether an expenditure is primarily for medical care or is merely beneficial to general health is a question of fact.

Section 262 provides that, except as otherwise expressly provided by the Code, no deduction is allowed for personal, living, or family expenses.

Rev. Rul. 79-151, 1979-1 C.B. 116, holds that a taxpayer who participates in a weight reduction program to improve the taxpayer's appearance, general health, and sense of well-being, and not to cure a specific ailment or disease, may not deduct the cost as a medical expense under § 213.

Rev. Rul. 55-261, 1955-1 C.B. 307, holds that medical care includes the cost of special food if (1) the food alleviates or treats an illness, (2) it is not part of the normal nutritional needs of the taxpayer, and (3) the need for the food is substantiated by a physician. However, special food that is a substitute for the food the taxpayer normally consumes and that satisfies the taxpayer's nutritional needs is not medical care.

ANALYSIS

Amounts paid for the primary purpose of treating a disease are deductible as medical care. Obesity is medically accepted to be a disease in its own right. The National Heart, Lung, and Blood Institute, part of the National Institutes of Health, describes obesity as a "complex, multifactorial chronic disease." Clinical Guidelines on the Identification, Evaluation, and Treatment of Overweight and Obesity in Adults (1998), page vii. This report is based on an evaluation by a panel of health professionals of scientific evidence published from 1980 to 1997.

Other government and scientific entities have reached similar conclusions. For example, in a preamble to final regulations the Food and Drug Administration states "obesity is a disease." 65 Fed. Reg. 1027, 1028 (Jan. 6, 2000). The World Health Organization states that "[o]besity is now well recognized as a disease in its own right" Press Release 46 (June 12, 1997).

In the present case, a physician has diagnosed A as suffering from a disease, obesity. Therefore, the cost of A's participation in the X weight-loss program as treatment for A's obesity is an amount paid for medical care under § 213(d)(1). Although B is not suffering from obesity, B's participation in X is part of the treatment for B's hypertension. Therefore, B's cost of participating in the program is also an amount

paid for medical care. A and B may deduct under § 213 (subject to the limitations of that section) the fees to join the program and to attend periodic meetings. These situations are distinguishable from the facts of Rev. Rul. 79-151, in which the taxpayer was not suffering from any specific disease or ailment and participated in a weight-loss program merely to improve the taxpayer's general health and appearance. However, A and B may not deduct any portion of the cost of purchasing reduced-calorie diet foods because the foods are substitutes for the food A and B normally consume and satisfy their nutritional requirements.

HOLDING

Uncompensated amounts paid by individuals for participation in a weight-loss program as treatment for a specific disease or diseases (including obesity) diagnosed by a physician are expenses for medical care that are deductible under § 213, subject to the limitations of that section. The cost of purchasing diet food items is not deductible under § 213.

EFFECT ON OTHER DOCUMENTS

Rev. Rul. 79-151 and Rev. Rul. 55-261 are distinguished.

CONTACT INFORMATION

For further information regarding this revenue ruling, contact John T. Sapienza, Jr., on (202) 622-7900 (not a toll-free call).