

## ***Information Release: Divorce and the Tax Consequences of Payment***

Divorced couples should note alimony changes under TCJA

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### **Divorced couples should note alimony changes under TCJA**

*Alimony is no longer tax-deductible*

Determining the tax consequences that can arise during a divorce or marital separation can be vital for the financial protection and well-being of the taxpayer and their family. That's why it's important to understand applicable tax laws before making any major decisions.

One of the most confusing tasks during the divorce process is determining whether a payment should be considered alimony or child support. Generally, alimony is the amount paid to a spouse for their living expenses, education, health or life insurance, property taxes, or mortgage payment. Alimony is not for providing child support.

Under the Tax Cuts and Jobs Act (TCJA), alimony is not tax-deductible. Furthermore, it is not included in the recipient's gross income. The TCJA rules apply to divorces and legal separations executed after 2018, meaning the alimony-paying spouse cannot deduct the payments and the alimony-receiving spouse doesn't include them in gross income.

In general, the TCJA rules do not apply to existing divorces and separations executed before 2019. If the TCJA rules don't apply, the old rules continue to apply. In this case, the person receiving alimony must pay taxes on the payments

received during the year and the paying spouse may deduct the amount paid during the year, provided the payment meets the following conditions:

- The payment is made in cash or cash equivalent, which includes checks, bank deposits, etc. Payments in the form of bonds, stocks, money market shares, or actual objects are not considered alimony for tax purposes.
- The payment is made as to the result of a legal separation agreement or divorce decree.
- The spouses do not live in the same household at the time the payment is made.
- The divorce decree does not designate the payment as nontaxable to the recipient nondeductible by the payer.
- There can be no liability for payments after the death of the receiving spouse.

Child support, unlike alimony, is not taxable to the spouse who received the payment, nor is it tax-deductible by the spouse who makes the payment. A divorce decree may specifically call the payment “alimony,” but the payment may have the characteristics of child support, for example, the designation in the divorce document that the payment changes or terminates at certain milestones in the child’s life.

Tax challenges during and following a divorce are common, but they can be minimized with some knowledge about tax laws and IRS procedures. Financial planning is an important part of the divorce process. This article contains general tax information for taxpayers. Each tax situation may be different, do not rely upon this information as your sole source of authority. Contact Stephanie Ferdinand at Stephanie Ferdinand EA for professional advice for your tax situation. [Name] is an expert who keeps current on tax law changes as well as a member of the National Association of Tax Professionals. Visit [StephanieFerdinandEA.com](http://StephanieFerdinandEA.com) for contact information.