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# How Tax Reform Will Make Divorce More Expensive

TAX, TAX REFORM, WEALTH MANAGEMENT

BY MICHAEL DARPINO

Divorcing couples are not likely to be found on the list of taxpayers who are happy with the sweeping changes effected by The Tax Cuts and Jobs Act (the “Act”). For certain couples who part ways by means of a divorce decree or separation agreement made final in 2019 or thereafter, divorce will become a lot more expensive. This is because, beginning next year, the Act eliminates the income tax deduction for alimony payments that has been a part of the Internal Revenue Code for nearly 80 years.

Alimony, also known as “spousal support,” is an obligation imposed by the court upon one spouse to continue to provide financial support to the other spouse following a divorce or legal separation. Typically, the higher-earning spouse is ordered to make payments to the lower-earning spouse for a prescribed period of time or until the spouse remarries.

Under current law, a spouse who pays alimony (the “payor spouse”) may take an above-the-line deduction equal to the amount of alimony paid, and the spouse who receives the alimony (the “payee spouse”) includes the alimony in his or her income for the year of receipt. Because of the income disparity between the spouses, this rule often has the effect of shifting taxable income from a higher tax bracket to a lower tax bracket. The net result is more money available to the divorcing spouses and less money to the Internal Revenue Service.

Beginning next year, the playing field will change. For divorces and legal separations effected after 2018, the payor spouse will no longer be entitled to a deduction for alimony paid, and the payee spouse will no longer include the alimony payments in income. The consequence is that income that would otherwise be taxed at the payee spouse’s lower rate will now be taxed at the payor spouse’s higher rate, thus diminishing the cash flow of the payor spouse. Although the payee spouse will receive more favorable treatment under the new law, the spouses considered together are usually better off under current rules.

Divorce can be complicated from a legal perspective and also from a tax perspective. Taxpayers contemplating a divorce are well-advised to consult with a tax professional as well as a divorce attorney to ensure the best possible outcome.

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