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# New Tax Law will Impact Resolution of Alimony / Spousal Support Disputes

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With the passage of the Tax Cuts and Jobs Act ("Act"), family law attorneys must now deal with the implications of the loss of what was often viewed as a valuable alimony/spousal support ("alimony") deduction under Internal Revenue Code ("IRC") Section 215 for the paying spouse and inclusion of receipt of alimony payments of the receiving spouse under IRC Section 71 in Judgments of Divorce. The changes in the law will become effective for Judgments of Divorce entered after December 31, 2018.

In essence, by eliminating the deduction for the payor spouse and no longer requiring the recipient spouse to include the payments received, the treatment of payments of alimony will be similar to the treatment of payments of child support under the IRC. But this change in the law will likely have a significant impact with respect to negotiating the issue of alimony in many situations. Family law practitioners, up to now, had the availability of the deduction as part of their toolbox to encourage the paying spouse to offer more money in an effort to resolving such disputes, knowing that the availability of the deduction served as a valuable incentive to encourage the higher earning spouse to pay more. This deduction became especially helpful in resolving the alimony issue in certain situations, such as couples with a considerable disparity in income. The loss of the deduction will likely complicate negotiations and a resolution of the issue and will also more likely have a disproportionate impact on the recipient spouse of alimony support due to the difference in tax rates between the payor and the payee. The unanswered questions are whether the loss of the deduction will end up resulting in fewer settlements and more litigation over the issue as well as how the courts will evaluate the loss of the deduction when judges are deciding such disputes.

For those couples who are currently divorced and who are dealing with the issue of payment and receipt of alimony, the new law should not have any impact with respect to the deduction/inclusion of payment issue. The party who pays alimony

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will still be able to deduct the payments and the party who receives alimony will still be required to treat the payments as income even if the payments stretch beyond December 31, 2018. Only Judgments of Divorce entered with the courts after December 31, 2018 will be impacted by the new law.

Bottom line. Family law attorneys will have the remainder of 2018 to figure out how to best deal with this issue. Happy planning!!!

We are here to help if you have any questions.

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