ALIMONY PAYMENTS

The federal income tax laws regarding the deductibility of alimony payments were substantially changed in the Tax Reform Act of 1984. The current rules which generally apply to all agreements entered into after December 31, 1984, are described briefly in this article.

If alimony or separate maintenance payments are made under a decree or written instrument incident to divorce or separation, they will be includable in the income of the receiving spouse and deductible by the paying spouse.

Such payments are deductible from gross income even if you choose not to itemize your deductions.

To be deductible, the payments must be in cash. The written instrument or decree must not designate that the payments are excludable from the income of the receiving party or to be treated as nondeductible by the paying party. The payments must be received by or directly for the benefit of the receiving spouse. Liability for such payments or any substitute payments cannot extend beyond the death of the receiving spouse.

Any portion of a payment that is specified as support for the couple 's minor children is not includable in the income of the receiving party, nor is it deductible by the payor.

In order to ensure that the payments deducted as alimony are not disguised property settlements, the regulations provide certain limitations on the term of payment and the fluctuation in the amount of annual payments. If your tax return is examined and the Internal Revenue Service determines that the deductions you claimed were really property settlements, you will be taxed accordingly. Any deductions which the payor is disallowed will create a corresponding tax benefit to the receiving party.

Even though taxes may not be foremost in the minds of those getting divorced, the tax consequences make it worthwhile to address this issue.