

Internal Revenue Service Revenue Ruling 55-261

1955-1 C.B. 307

Sec. 213

Caution: Distinguished by Rev. Rul. 76-80

Caution: Modified by Rev. Rul. 68-212

Caution: Modified by Rev. Rul. 63-91

Caution: Distinguished by Rev. Rul. 62-189

Caution: Modified by Rev. Rul. 58-280

Caution: Modified by Rev. Rul. 58-8

Deductibility as medical expenses under section 23(x) of the Internal Revenue Code of 1939 of certain expenditures made by taxpayers for transportation, travel, special education, medical insurance, health institutes, air conditioning device, special construction and equipment, special clothing, food and beverages, and other hygienic articles for purposes of health.

Full Text

Rev. Rul. 55-261

Consideration is given herein to the deductibility under section 23(x) of the Internal Revenue Code of 1939 of certain expenditures made by taxpayers for purposes of health, and on which advice for Federal income tax purposes has been requested.

Section 23(x) of the Code (Now IRC 213) provides in part as follows:

SEC. 23. DEDUCTIONS FROM GROSS INCOME.

In computing net income there shall be allowed as deductions:

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(x) MEDICAL, DENTAL, ETC., EXPENSES.-Expenses paid during the taxable year, not compensated for by insurance or otherwise, for medical care of the taxpayer, his spouse, or a dependent specified in section 25(b)(3)-

* * * * The term 'medical care,' as used in this subsection, shall include 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 (including amounts paid for accident or health insurance).
* * *

Section 39.23(x)-1 of Regulations 118 provides that allowable deductions under section 23(x) will be confined strictly to expenses incurred primarily for the prevention or alleviation of a physical or mental defect or illness. The taxpayer shall furnish the name and address of each person to whom payment for

medical expenses was made and the amount and approximate date of the actual payment thereof. Claims for deductions must be substantiated, when requested by the Commissioner, by a statement from the individual or entity to which payment for medical expenses was made, showing the nature of the service rendered, the amount paid therefore, and the date of the actual payment thereof, and by such other information as the Commissioner may deem necessary.

In general, any expense paid primarily for the diagnosis, cure, mitigation, treatment, or prevention of disease is allowable as a medical expense deduction. Such expenses include payments for services rendered by physicians, surgeons, dentists, optometrists, chiropractors, osteopaths, qualified psychiatrists and psychologists, and authorized Christian Science practitioners. They also include amounts paid for hospitalization insurance, and for accident or health insurance premiums which provide indemnity for cost of medical care, but not for indemnity solely for loss of earnings. See I.T. 3598, C.B. 1943, 157; Revenue Ruling 143, C.B. 1953-2, 129, and section 39.23(x)-1 of Regulations 118.

Amounts paid primarily for the purpose of affecting some structure or function of the body are allowable as a medical expense deduction. Such expenses include payments for obstetrical expenses, and X-ray or therapy treatments. Expenses paid primarily for the prevention or alleviation of a physical or mental defect or illness include payments for hospital expenses, nursing service (including nurses' board where paid by the taxpayer), medical, laboratory, surgical, dental and other diagnostic and healing services. Similarly, allowable deductions also include the cost of eyeglasses, hearing aids and component parts, a 'seeing-eye' dog and its maintenance, artificial teeth and limbs. Ambulance hire essential to the rendition of medical services, and travel expense primarily for the prevention or alleviation of a physical or mental defect or illness, when such travel is not, in any sense, for vacation purposes, constitute allowable medical deductions. The deductibility of travel expense under the provisions of section 23(x) of the Code, however, must depend on the facts of each case and to the extent that such expense can be substantiated to the satisfaction of the Commissioner.

Medical expense, in order to be deductible under section 23(x) of the Code, subject to the limitations provided in that section, is therefore any expense paid and properly substantiated as being primarily for any of the purposes enumerated in section 23(x). Expenses of such a nature that the personal or other benefits realized are greater than the medical benefits realized will not generally qualify as allowable deductions.

The expenditures in question and the application of section 23(x) of the 1939 Code thereto are shown below.

(some have been deleted as they do not relate to this topic)

1. Hotel expenses incurred where daily visits are required to a medical clinic.-Held deductible. Travel, meals and lodging incurred primarily for and essential to the rendition of medical services are deductible under section 23(x). See I.T. 3786, C.B. 1946-1, 75. (However, for years beginning with 1954 see section 213(e) of the Internal Revenue Code of 1954 and Committee Reports denying deduction for food and lodging except where incurred as part of a hospital bill.)

2. Cost of trip to Florida solely for the benefit of a taxpayer's post-operative throat and lung condition.-

In this case, the taxpayer underwent an operation for the removal of the larynx. Since that operation, he breathes through an opening in his throat. His efforts to breathe during the winter at his residence in a northern climate produce spasms of coughing which rupture blood vessels in his lungs, causing considerable distress to him. He has found that he is entirely free of this condition when in Florida during the winter months. It is held that, on the basis of the particular facts in this case, the cost of a trip to Florida primarily for the alleviation of a physical defect, the cost of such trip fully substantiated to the satisfaction of an examining officer of the Internal Revenue Service, is deductible under the provisions of section 23(x) of the Code and of section 39.23(x)-1(d) (1) of Regulations 118. See I.T. 3786, supra, and Commissioner v. Keever L. Stringham, 183 Fed. (2d) 579. (See note at end of item `1.')

3. Transportation expense of a physically disabled person to and from his place of employment.-In this case, taxicab fares were paid by a physically handicapped victim of polio in commuting to and from his place of employment. The expense of such transportation is a personal expense not deductible for Federal income tax purposes. Compare John C. Bruton v. Commissioner , 9 T.C. 882; Esther E. Ranstead v. Commissioner , Tax Court Memorandum Opinion, entered January 31, 1951.

4. Cost of special education or training of a deaf child .-Section 39.23(x)-1(d)(1) of Regulations 118 provides, in part, that `allowable deductions under 23(x) will be confined strictly to expenses incurred primarily for the prevention or alleviation of a physical or mental defect or illness.' Under this provision, it is held that the cost of special instruction or training, such as in speech and lip reading, designed to alleviate the loss of speech which is attributable to deafness and to compensate in part for the loss of the sense of hearing is deductible as a medical expense under section 23(x) of the Code. However, the cost of ordinary instruction which a child would require in any event is not a medical expense and is not deductible. See Commissioner v. Stringham.

5. Cost of regular psychiatric therapy at a specially equipped treatment school .-Due to severe emotional disturbances, a taxpayer's daughter is sent on the advice of a psychiatrist to a treatment school operating 12 months in the year, at which school she is under the care of a practicing psychiatrist and receives regular psychiatric therapy. Under such circumstances the amount paid for psychiatric care which is for the primary purpose of alleviating a mental illness is deductible as a medical expense under section 23(x) of the Code. As in situation 4 above, however, the cost of instruction or tuition at such school which does not represent medical care is not deductible.

6. Personal counseling program for remedial reading.-Taxpayer's son is attending a college for a personal counseling program for remedial reading. He is handled by a psychologist and is receiving individual instruction together with psychotherapy. If the psychotherapy is incidental to general supervisory counseling, the entire expense constitutes a personal expense the deduction of which is prohibited by section 24(a) (1) of the Code. However, if a claim for deduction of the cost of the psychotherapy can be substantiated, when requested by the Commissioner, as having been incurred primarily for the prevention or alleviation of a physical or mental defect or illness, as required in sections 39.23(x)-1(d) (1) and 39.23(x)-1(g) of Regulations 118, the cost thereof may be deducted as a medical expense. See Rev. Rul. 143, C.B. 1953-2, 129, and Rev. Rul. 54-457, C.B. 1954-2, 100.

8. Transportation expense to a doctor's office.-Section 39.23(x)-1(d) (1) of Regulations 118 provides that travel primarily for and essential to the rendition of medical services is an allowable medical

deduction. Transportation expense, as for example taxicab fares, paid for and properly substantiated as being primarily for the rendition of medical services constitutes an allowable medical deduction.

9. Fees paid to health institutes .-Ordinarily, fees paid to a health institute where the taxpayer takes exercise, rubdowns, etc., are held to be a personal expense, deduction for which is prohibited by section 24(a)(1) of the Code. However, fees paid to health institutes may be deductible as medical expense only when such treatments by such institutes are prescribed by a physician and are substantiated by a statement by the physician that the treatments are necessary for the alleviation of a physical or mental defect or illness of the individual receiving the treatments.

10. Air conditioning device .-Inquiries have been made as to the deductibility of the cost of an air conditioning device which has been installed in a room of the taxpayer's residence for the purpose of effecting relief from an allergy or for relieving difficulty in breathing due to a heart condition. It is held that the cost of an air conditioning device, plus the operating expenses, less any resale or salvage value, constitute an allowable deduction as a medical expense subject to prescribed limitations, provided that the need for it is substantiated by evidence submitted to show that the device is used primarily for the alleviation of a person's illness and provided further that the device does not become a permanent part of the dwelling and may be removed to other quarters.

14. Special mattress and plywood boards for the relief of an arthritic condition.-Taxpayer's spouse has arthritis of the spine for which a special mattress and a certain thickness of plywood boards has been prescribed. Under such circumstances the expense of a special mattress and plywood boards prescribed for the relief of a physical disease or illness constitutes a medical deduction under section 23(x) of the Code.

15. Cost of special food and beverages prescribed for specific ailments.-Advice has been requested with respect to the deductibility as a medical expense of (1) whiskey prescribed by a physician for the relief of angina pain resulting from a coronary artery disease and (2) cost of special food prescribed by a physician for a taxpayer who is on an ulcer diet. Generally, the cost of special food or beverages does not qualify as a medical expense within the meaning of section 23(x) of the Code. However, in special cases, depending upon the particular facts presented, if the prescribed food or beverage is taken solely for the alleviation or treatment of an illness, is in no way a part of the nutritional needs of the patient, and a statement as to the particular facts and to the food or beverage prescribed is submitted by a physician, the cost of such food or beverage may be deducted as a medical expense. Where the special food or beverage is taken as a substitute for food or beverage normally consumed by a person and satisfies his nutritional requirements, the expense incurred is a personal expense within the meaning of section 24(a)(1) of the Code; but where it is prescribed by a physician for medicinal purposes and is in addition to the normal diet of the patient, the cost may qualify as a medicinal expense under section 23(x).