

Tuition at school with dyslexia program medical expense (06/16/2005)

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IRS has privately ruled that tuition for taxpayers' children diagnosed with dyslexia at a school with a program designed to allow them to deal with their medical handicap was a deductible medical expense.

RIA Observation: Medical science and the media have focused on the wide range of disabilities that may affect young children. Consequently, not only doctors, but parents, teachers, and other caregivers are more aware of the issue, and learning disabilities are more likely to be detected early and properly treated. The treatment for these learning disabilities can place a heavy financial burden on parents, particularly where more than one child is involved. Fortunately, the tax law may help by allowing a partial deduction for the cost of such children's school. However, like other deductible medical expenses, this cost is deductible only to the extent that medical expenses for the year cumulatively exceed 7.5% of the taxpayer's adjusted gross income.

Background: Medical care includes the cost of attending a special school designed to compensate for or overcome a physical handicap, in order to qualify the individual for future normal education or for normal living. This includes a school for the teaching of Braille or lip reading. The principal reason for attending must be the special resources for alleviating the handicap. The cost of tuition for ordinary education that is incidental to the special services provide at the school, and the cost of meals and lodging supplied by the school, also is included as a medical expense. (Reg. S 1.213-1(e)(1)(v)(a))

Facts: Taxpayers, who we'll call Peter and Mary, have two children that have been diagnosed as having disabilities caused by medical conditions, including dyslexia, that handicap their ability to learn. Peter and Mary have enrolled their children in School, which provided each handicapped child with a program of special education designed to enable the child to deal with his medical handicap and move on to study at a regular school.

Peter and Mary asked IRS to rule that the tuition for their dependent children is deductible.

Tuition is a medical expense. IRS ruled that the children are attending School principally to receive medical care in the form of special education in those years each child is diagnosed as having a medical condition that handicaps his ability to learn. Their tuition at School is a medical care expense deductible under Code Sec. 213(a) for the years they continue to be diagnosed as medically handicapped.

IRS said that special education includes giving remedial language training to correct a condition caused by a birth defect, or overcoming other disabilities. Dyslexia can also be sufficiently severe as to be such a handicap.

RIA Observation: Similarly, special education includes programming dealing with attention deficit hyperactivity disorder (ADHD) and similar diagnosed afflictions of the young.

IRS explained that normal education is not medical care because it is not designed to help

someone overcome a medical disability. Thus, for education to be medical care, a physical or other qualified professional must diagnose a medical condition requiring special education to correct that condition. A school need not employ doctors to provide that special education, but must have a professional staff competent to design and supervise a curriculum providing medical care. Overcoming the learning disabilities must be a principal reason for attending the school, and any ordinary education received must be incidental to the special education provided.

RIA Observation: The Tax Court has rarely considered a “regular” private school to be a special school. Although the individual attention, small class size, and strict discipline characteristic of good private schools often are beneficial to students suffering from mental or physical defects of illnesses, these schools rarely qualify. Similarly, the Tax Court has held that, where students who are blind, deaf, or have epilepsy go to private schools because they allow the students to attend school in a normal setting, the schools are not special schools because their purpose is academic, rather than therapeutic.

IRS advised Peter and Mary that whether tuition is deductible doesn’t depend on whether School is a “special school.” Deductibility depends on what the school provides an individual. A school can have a normal education program for the most students, and a special education program for those who need it. Thus, a school can be “special” for one student but not for another.

RIA Observation: The Tax Courts have held and IRS privately ruled that, where a school attended by a student with a medical problem doesn’t qualify as a special school because the ordinary education isn’t incidental to the special serviced provided, the costs of the special program or special treatment (but not the entire tuition) may still be a deductible medical expense.

References: For education as a medical expense, see FTC 2d/FIN, K-2150 et seq.; United States Tax Reporter, 2134.10 ; TaxDesk, 347,507 et seq.; TG, 18818
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