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TWENTY TAX TIPS ON ALIMONY

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The subject of alimony is not a pleasant one but since we live in this liberal society of America, let us learn of a few rules.

1. Alimony payments are **deductible by the payor spouse and are includable in the income of the recipient spouse**. (Child support is neither deductible as expense nor includable as income).
2. Alimony must be pursuant to a **written** instrument of divorce or separation.
3. The payor's obligations must **end with the recipient's death**. If the payments are allowed to continue after such death, it could be construed as child support and therefore not deductible. Most family support agreements where payments do not terminate on the death of the spouse have failed to qualify as alimony in recent tax court cases.
4. Payments will **not** be considered alimony if the spouses live together or file a joint return.
5. Payments must be in **cash** (generally).
6. Payments must **not be related to a child's life** such as age or school completion dates; otherwise, it could become child support and non-deductible.
7. Excessively large payments following the divorce called "**excess front loading**" do not qualify as alimony.
8. Transfers of property, debts or services do **not** qualify as alimony.
9. Payments where the payor spouse has **not** paid child support do not qualify as alimony.
10. Payments to **third parties** such as medical insurance, rent, utilities and taxes generally qualify as alimony.
11. If an agreement requires **both alimony and child support** but does not specifically allocate to each, the entire payment is alimony unless there are payment-reducing provisions leading to child-support interpretation.
12. You may deduct fees paid for **tax advice** in connection with property settlements provided that the fees are specific and separately stated.
13. **Legal costs** related to the collection of or increases in alimony are deductible. Legal costs to resist collection or contest an increase in alimony are not deductible.

14. No gain or loss is recognized on property transferred to a spouse. The transfer is treated as a gift. This non-recognition rule holds true even if the liabilities exceed the adjusted basis of the property.
15. This adjusted basis is then carried over as the recipient's basis.
16. The non-recognition rules do not apply when one spouse is a non-resident alien; therefore, the transferor recognizes a taxable gain.
17. Beware in planning distributions from your qualified retirement plan. If your spouse gets one-half of your retirement money, you could end up paying tax on all distributions while your ex-spouse gets her half tax-free. You need to have a Qualified Domestic Relations Order (QUADRO) to protect yourself.
18. Early distribution to an ex-spouse is exempt from the 10% excise tax for federal and 2 1/2% penalty for state.
19. Tax refunds are based on each of your separately computed tax. If not feasible to compute, allocate 50% to each taxpayer.
20. Estimated tax payments are traced to payor, and then allocated 50:50 if not traceable.
21. A couple may designate in their divorce decree that payments are not alimony. Such designation will be valid for tax purposes.

Good day.