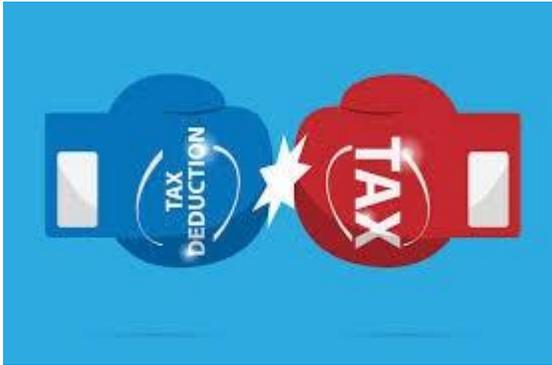


Spousal Support Under the New Tax Laws



What Happens with Spousal Support Under The New Tax Law

There have been so many questions asked about what happens under the new tax laws and the deductibility of spousal support. This is a question that accountants and attorneys alike are wondering as this is the first year under this new Tax Cuts and Jobs Act enacted by the Federal Government.

First it should be noted that New York State under State law has kept the deductions intact. It is the Federal Taxes that have done away with the marital deduction for Spousal Support.

What is spousal support? This is an amount originally designed to provide the spouse who earns less with a monetary figure designed to maintain herself or himself with the ability to “get back on his or her feet” after a separation or divorce.

New Guidelines were put in place which have an actual calculation regarding maintenance (spousal support), however, these guidelines were put in place before the Tax Cuts and Jobs Act were enacted which removed the deduction for maintenance (spousal support). This created a large gap and question as to how to treat awarding spousal support after the deduction was removed. It causes a huge issue when discussing how much maintenance (spousal support) should be given.

During mediation, a fair amount of spousal support can be discussed taking into consideration what a spouse would have received after tax under the prior tax laws and allowing maintenance given by the supporting spouse to be reduced by the amount of tax the receiving spouse would have paid.

For example, if the receiving spouse was in a 20% tax bracket she would be paying 20% on the spousal support she would receive. The supporting spouse would then pay maintenance subtracting out the tax the receiving spouse would have paid. (let’s say the receiving spouse if received \$50,000 in spousal support at 20% tax bracket, he or she would have to pay \$10,000 in taxes. Under the new law, and given the changes we would reduce the support to \$40,000 to be paid by the supporting spouse instead of \$50,000. More fair, right?)

Other options can be discussed as well. As we do not know what the Courts will do at this time to make the tax burdens and spousal support more equitable to all parties, we have to come up with creative ways to award spousal support.

The beauty of mediation is that the couple, with the help of an experienced attorney/mediator, can work through this together. Controlling the end product together, through mediation a result can be obtained which is fair to all.

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