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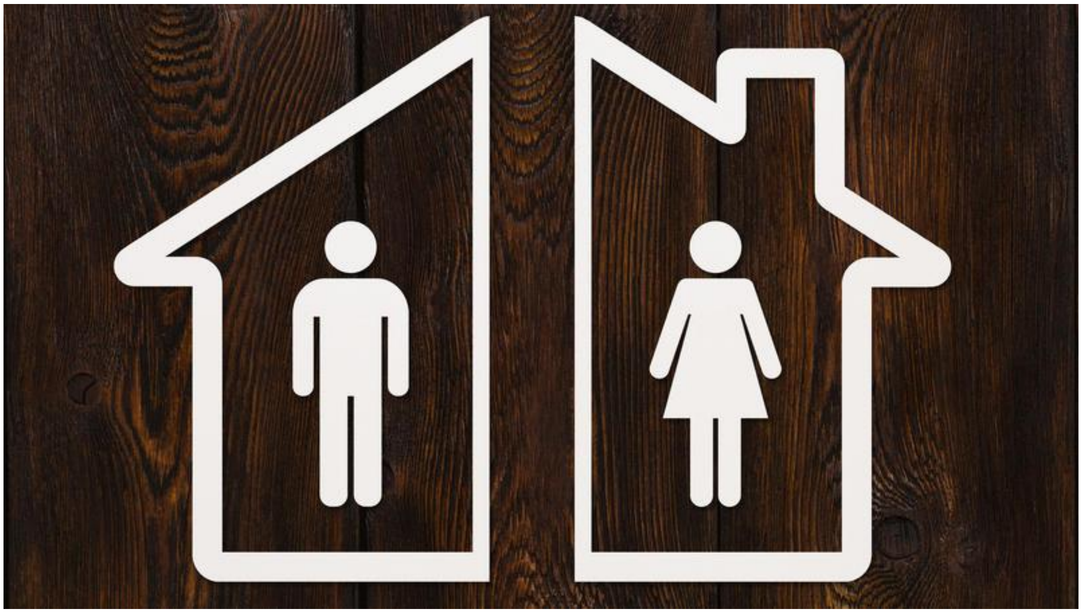
End Of Alimony Deduction Hits Connecticut Couples



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After 75 years, the so-called alimony deduction will soon be dead, a casualty of the Tax Cuts and Jobs Act of 2017, the sweeping tax legislation that President Donald Trump signed on Dec. 22.

The repeal of the alimony deduction threatens to affect Connecticut residents more severely than those of any other state.

Before the bill was signed, the alimony deduction treated alimony as taxable income to the recipient and tax deductible by the payer. The repeal means that the tax treatment of alimony payments will be reversed. For the recipient, alimony payments will no longer be taxable income. For the payer, the payments will no longer be tax deductible. The bottom line is more money for Uncle Sam; less for the divorced couple.

If you already are divorced or will become divorced this year, there is no cause for alarm. The repeal applies only to divorce decrees issued on or after Jan. 1, 2019. Existing alimony orders and those that will take effect this year are grandfathered. Modifications of pre-2019 alimony orders also will be grandfathered, so that a modified order will enjoy the same tax treatment as the prior alimony order unless the court orders or the parties agree otherwise. These rules apply to temporary as well as final alimony orders.

For those divorcing in 2019 and later, the repeal of the alimony deduction will magnify the financial stress caused by divorce, and will hurt both the payer and the recipient. The reason is that the deduction enables a divorced couple to shift income from the typically higher tax rate of the payer to the typically lower tax rate of the recipient. This reduces the combined income tax paid by the parties, and correspondingly increases the after-tax income available for division between the divorcing spouses. The repeal of the deduction will reduce the total after-tax income available to divide between the couple. It will hurt them both.

The impact can be significant. For example, based on the 2018 IRS tax tables, for a Connecticut couple with a husband earning $250,000 per year and a wife who is a stay-at-home mother with no income, the repeal of the alimony deduction can increase the couple's combined income tax burden by more than $15,000 (assuming no other income, exemptions or deductions). That is a lot of money that no longer will be available for either spouse.

A recent survey of matrimonial law attorneys throughout the country by J. Thomas Oldham, professor of law at the University of Houston Law School, indicates that alimony awards in Connecticut may be the highest in the United States. The survey also indicates that Connecticut may have the longest alimony terms — that is, the number of years alimony is paid — in the nation. So, the repeal of the alimony deduction will likely hit Connecticut residents especially hard.

The repeal is likely to have another consequence: the loss of the current tax deduction for legal fees and court costs paid to obtain an award of alimony. Previously, legal fees and costs incurred in seeking alimony were tax deductible, subject to a cap of 2 percent of adjusted gross income. The rationale for the deduction was that these legal fees and costs were a necessary cost of obtaining taxable income. Once the elimination of the alimony deduction becomes effective, alimony no longer will be taxable income to the recipient. Therefore, alimony recipients likely will lose the ability to deduct legal fees and costs incurred in connection with securing an award of alimony.

Divorce frequently results in financial pain and a decrease in the standard of living for both parties, who must support two households on the same income that previously supported one. The repeal of the alimony deduction will exacerbate this problem by reducing the after-tax income available to pay alimony. If, as Professor Oldham's survey suggests, Connecticut has among the highest alimony awards and the longest alimony terms in the nation, the effect of the repeal in Connecticut will be pronounced.

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