

Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:

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Date:

November 20, 2000

[REDACTED]

This letter is in response to your letters dated May 9, 2000 and September 3, 2000, in which you requested a clear cut ruling addressing the deductibility of legal expenses incurred by you in connection with a post-decree proceeding brought against you by your former wife for unpaid permanent maintenance and child support.

We interpret your request for a "clear cut" ruling as a request for a private letter ruling. A private letter ruling is a written response issued to a taxpayer by the National Office of the Internal Revenue Service ("Service") that interprets and applies the tax laws to that taxpayer's specific set of facts. The procedures for obtaining a private letter ruling are described below. We would be pleased to consider your request once these requirements are satisfied. However, at the present we can supply only general information.

Procedures for Obtaining Private Letter Rulings

In Revenue Procedure 2000-1, 2000-1 I.R.B. 4, the Service has published guidelines for taxpayers to follow when requesting private letter rulings. A copy of Revenue Procedure 2000-1 is enclosed for your reference. This Revenue Procedure contains very specific requirements, including a checklist of important matters, that taxpayers must meet in order to obtain a ruling. For example, section 8.01 requires that the taxpayer's submission include a complete statement of facts, copies of all pertinent documents, and certain other information. In your situation, for example, such documents should include a copy of the divorce decree and all documents submitted to the trial and appellate courts concerning your former wife's motion. Additionally, the taxpayer's submission must state a position and include a legal analysis in support of that position. The submission must be accompanied by a statement signed under penalty of perjury.

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Further, section 5.01 of Rev. Proc. 2000-1 provides that, in income tax matters, the National Office generally issues letter rulings on proposed transactions and on completed transactions if the letter ruling request is submitted before the return is filed for the year in which the transaction that is the subject of the request was completed. It is unclear from your letters when you incurred the legal expenses in question. If they were incurred during years for which you have already filed income tax returns, the Service may be precluded by section 5.01 of Rev. Proc. 2000-1 from issuing a ruling on payments made during those years.

Finally, Rev. Proc. 2000-1 would require paying a "user" fee of at least \$500 to the Service. An alternative approach that might be less costly would be to consult your own tax advisor for the proper tax treatment of your legal fees.

General Information

General information letters, such as this letter, are statements issued by the Service that call attention to well-established principles of tax law. These letters are advisory only and have no binding effect. The Service issues them where a taxpayer's inquiry shows a need for general information.

You are seeking information about the treatment of legal fees incurred as a result of a dispute about the terms and conditions of a separation agreement. Generally, attorneys fees and other costs paid in connection with a divorce, separation, or decree for support are not deductible. In contrast, legal expenses incurred for the management, conservation or maintenance of property held for the production of income may be deducted. However, an otherwise nondeductible expense does not become deductible by reason of the fact that property held by the taxpayer may be required to be used or sold for the purpose of satisfying the liability.

We hope that this information will be helpful to you. If you have any further questions regarding this matter, please call [REDACTED].

Sincerely,

Associate Chief Counsel
(Income Tax & Accounting)

By: _____

Douglas A. Fahey
Acting Chief, Branch 5