

Internal Revenue Service

Department of the Treasury

Number: **200324011**
Release Date: 6/13/2003
Index No.: 213.05-00

Washington, DC 20224

Person to Contact:

Telephone Number:

In Reference To:

CC:ITA:2 – PLR-103479-02

Date:

January 28, 2003

Legend:

Disorder =

Surgery =

Procedure=

Dear :

This responds to your request for a ruling on whether the cost of Surgery is within the definition of “medical care” for purposes of the medical expense deduction under § 213 of the Internal Revenue Code.

FACTS:

Taxpayer is diagnosed with a Disorder and is planning to undergo Surgery for Procedure.

LAW AND ANALYSIS:

A taxpayer may deduct expenses paid during the taxable year, not compensated for by insurance or otherwise, for medical care of the taxpayer, spouse, or dependent, to the extent the expenses exceed 7.5 percent of adjusted gross income, under § 213(a). Section 213(d)(1)(A) defines the term “medical care” as amounts paid for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body.

Section 1.213-1(e)(1)(ii) of the Income Tax Regulations provides, in part, that amounts paid for operations or treatments affecting any portion of the body are deemed to be for the purpose of affecting any structure or function of the body and are therefore paid for medical care. Thus, payments for medical care include payments for hospital services, nursing services, medical, laboratory, surgical, dental and other diagnostic and healing services, X-rays, medicine, and drugs.

Section 213(d)(9) provides that “medical care” does not include cosmetic surgery or similar procedures, unless necessary to ameliorate a deformity arising from, or related to, an illness, injury, or congenital abnormality. Cosmetic surgery includes any

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procedure that is directed at improving the patient's appearance and that does not meaningfully promote the proper function of the body or treat disease.

Rev. Rul. 73-201, 1973-1 C.B. 140, and Rev. Rul. 73-603, 1973-2 C.B. 76, hold that vasectomies, abortions, and operations that render a woman incapable of having children affect a structure or function of the body and thus may qualify as medical care under § 213. The Surgery Taxpayer plans to undergo similarly affects a structure or function of the body and may qualify as medical care. The Surgery is not directed primarily at improving Taxpayer's appearance and therefore is not a cosmetic procedure.

CONCLUSION:

The costs paid for the Surgery are medical care for purposes of the medical expense deduction under § 213.

CAVEATS:

A copy of this letter must be attached to any income tax return to which it is relevant. We enclose a copy of the letter for this purpose. Also enclosed is a copy of the letter ruling showing the deletions proposed to be made in the letter when it is disclosed under § 6110 of the Internal Revenue Code.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any item discussed or referenced in this letter. This ruling is directed only to the taxpayer(s) requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Sincerely,

Clifford M. Harbourt
Senior Technician Reviewer
Associate Chief Counsel
(Income Tax & Accounting)

Enclosures:

Copy of this letter
Copy redacted for section 6110 purposes