

Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:

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In Re:

TY: 2002

Legend:

Taxpayer	=
condition <i>a</i>	=
condition <i>b</i>	=
condition <i>c</i>	=
condition <i>d</i>	=
problem <i>e</i>	=
problem <i>f</i>	=
problem <i>g</i>	=
problem <i>h</i>	=
problem <i>i</i>	=
treatment <i>j</i>	=

Dear :

This letter ruling is in response to Taxpayer's letter, dated January 20, 2003, and submitted pursuant to Rev. Proc. 2003-1, 2003-1 I.R.B. 1, requesting a ruling under § 213 of the Internal Revenue Code.

FACTS

Taxpayer was born with condition *a*, condition *b*, and other condition *c*, all congenital abnormalities. These defects significantly inhibit the proper function of the body, including problem *e*, problem *f*, problem *g*, problem *h*, and problem *i*, and have now been ameliorated with numerous surgeries. As a direct result of these surgeries, Taxpayer has condition *d*, a facial deformity. Condition *d* can be improved with treatment *j*, which will need to be repeated over the course of many years.

Taxpayer seeks a ruling that the cost of treatment *j* is a deductible medical expense pursuant to § 213(a).

Law and Analysis

Section 213(a) allows a deduction for medical care expenses for which the taxpayer is not compensated by insurance or otherwise to the extent the expenses exceed 7.5 percent of adjusted gross income. Section 213(d)(1)(A) defines “medical care” to include 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. However, § 213(d)(9)(A) provides that medical care does not include cosmetic surgery unless the surgery is necessary to ameliorate a deformity arising from, or directly related to, a congenital abnormality, a personal injury resulting from an accident or trauma, or a disfiguring disease.

Section 213(d)(9)(B) defines cosmetic surgery as any procedure that has as its objective the improvement of the patient’s appearance without also meaningfully promoting the proper function of the body or preventing or treating illness or disease. Section 1.213-1(e)(1)(ii) of the Income Tax Regulations states that medical care includes operations or treatments, including surgery, that affect a portion of the body and that are deemed to be for the purpose of affecting any structure or function of the body.

Here, treatment *j* is cosmetic surgery pursuant to § 213(d)(9)(B) because it will improve Taxpayer’s appearance without also meaningfully promoting the proper function of the body or preventing or treating illness or disease. However, according to Taxpayer’s submission, Taxpayer’s condition *d* is a deformity that arose from, or is directly related to, the congenital abnormalities, condition *a*, condition *b*, and condition *c*, suffered by Taxpayer. Thus, treatment *j* is included within the definition of medical care under § 213(d)(1)(A) and § 213(d)(9)(A).

To the extent not compensated for by insurance or otherwise, the expenses of treatment *j* that exceed 7.5% of Taxpayer’s adjusted gross income will be deductible pursuant to § 213(a).

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Sincerely yours,

CHRISTOPHER F. KANE
Chief, Branch 3
Associate Chief Counsel
(Income Tax & Accounting)