



## **Deductibility of Tuition and Related Fees as Medical Expenses** *by Edward Goldsberry, CPA – PKF Texas*

The past several years have seen growing numbers of schools and school programs intended to provide treatment and education to students with learning and other disabilities (including emotional and behavioral disorders). Reasons for this are varied, but certainly include increased awareness and understanding, increased effectiveness in identification and diagnosis and a corresponding increased effectiveness in treatment.

Many programs are costly, and insurance coverage is limited at best. Parents with children who can benefit from these programs often are uninformed (or even misinformed) as to the income tax treatment of these programs' costs. Frequently, parents are not aware that some or all of the cost of such schools or programs may be deductible as medical expenses. Tax advisers can assist parents in determining the deductibility of school tuition and related fees and medical expenses for dependents with disabilities.

Under Sec. 213(a), an individual can take an itemized deduction for expenses paid during the tax year for medical care for the individual and for his or her spouse or dependents, to the extent that such expenses exceed 7.5% of adjusted gross income (AGI). Sec. 213(d)(1)(A) defines "medical expenses" 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." Qualifying medical expenses include doctor and dentist fees, hospital and nursing services, laboratory services, prescriptions and drugs and health insurance.

School tuition and fees may meet these tests. According to Regs. Sec. 1.213-1(e)(1)(v)(a), "[w]hile ordinary education is not medical care, the cost of medical care includes the cost of attending a special school for a mentally or physically handicapped individual, if his condition is such that the resources of the institution for alleviating such mental or physical handicap are a principal reason for his presence there." Further, "[i]n such a case, the cost of attending such a special school will include the cost of meals and lodging, if supplied, and the cost of ordinary education furnished which is incidental to the special services furnished by the school." And "... the cost of medical care includes the cost of attending a special school designed to compensate for or overcome a physical handicap, in order to qualify the individual for future normal education or for normal living..."

Rev. Rul. 70-285 explains that the term "special school" is a limited category of the term "institution," concluding that the distinguishing characteristic of a special school is the substantive content of its curriculum. The curriculum may include some ordinary education, but must be incidental to the school's primary purpose, enabling the student to compensate for or overcome a handicap.

As examples of such special schools, Regs. Sec. 1.213-1(e)(1)(v)(a) cites schools that teach Braille or lip reading; case law and IRS rulings have made it clear, however, that the



application is much broader. Other examples of qualifying circumstances include costs of schools with special programs designed to treat the following:

- Severe learning disabilities caused by neurological disorders (Rev. Rul. 78-340; see also Letter Ruling 8033096).
- Inability to function in a normal school setting due to emotional reactions to parents' divorce (*Greisdorf*, 54TC 1684 (1970), acq., 1970-2 CB XIX), or to a detrimental relationship with a mother (*Pazos*, TC Memo 1987-131).
- Severe adjustment reactions (including depression) to adolescence at a school admitting only students with average-to-above-average intelligence (Letter Ruling 8447014).
- The incremental costs of a special program within a private school for students with a written diagnosis of attention deficit hyperactivity disorder (Letter Ruling 9852015).
- Behavioral problems due to chronic drug abuse (*Urbauer*, TC Memo 1992-170).
- Dyslexia and other specific learning disabilities (Letter Ruling 8401024). *Note*: dyslexia has not always been determined to be a medical condition; see *Barnes*, TC Memo 1978-339 and TAM 6906120490A.

Establishing that the school or program is a special school is only the first step. The taxpayer must also show that the attendee has a medical need for the school's resources and that the program is intended and expected to be of medical benefit. Key questions are as follows:

- What is the principal purpose for which the expenditure was made?
- Was it made on the advice of a physician?
- Did it have a direct relationship to the treatment of a specific disease or physical or mental condition?
- Could the treatment be reasonably expected to be effective in the diagnosis or treatment, or to affect any structure or function of the body?

If these tests are met, the costs could reasonably be expected to qualify as Sec.213 medical expenses.



Eligible students attending special schools may also qualify for additional deductible medical expenses, including:

- Meals and lodging, if paid to the school and provided as part of its program.
- Incidental fees and expenses, if directly related to the school's program.
- Local transportation costs, and out-of-town transportation costs for the attendee and family members if the school is in another city and visits are part of the attendee's school program.

Qualifying medical expenses may also be reimbursable via a Sec. 125 cafeteria plan.

One reason that potential deductibility of school tuition and fees is often overlooked is because it is expected that medical expenses will not exceed the 7.5%-of-AGI threshold. Typically, families with special-needs children will also have substantial other nonreimbursed medical expenses. Alone, either these expenses or a special school's tuition and fees may not exceed the threshold but, when combined, they often will. Advisers increasingly need to understand these rules and the potential benefits to their clients.

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