

Chapter 11

Income Taxation of Individuals

Solutions to Develop Research Skills

Note to Instructor: No research aids or “hints” are provided in the textbook for problems in this chapter. Before the solution to each problem, however, suggested research aids are provided. This allows you to choose whether or not to provide any hints to your students for a particular problem. For problems that can be solved using free Internet sources, you must provide students with the citations in these hints and refer students to Figure 2.2 of Chapter 2 in the text for the URLs to enable them to solve these problems using free Internet sources. Some of the problems require access to *Checkpoint®* or a similar service. The research process for solving a sample problem is illustrated in Appendix A through screen captures for *Checkpoint®*.

60. *Medical Expense Deduction (can be solved using free Internet sources)*

Don has a very painful terminal disease. He has learned that marijuana may assist in mitigating his pain. Don lives in a state in which it is legal to use the drug if its use is under the direction of a medical doctor. Can Don deduct the cost of the marijuana as a medical expense?

Hint: Rev. Rul. 97-9, 1997-1 CB 77

Issue: Is Don permitted to deduct the cost of medically prescribed marijuana as a medical expense?

Conclusion: No, Don is not permitted to deduct the cost of marijuana as a medical expense.

Discussion of Reasoning and Authorities: Certain medical expenses, including prescription drugs, are deductible under Section 213. Section 213(a)(3) defines the term “prescribed drug” as a drug, which requires a prescription of a physician for its use by an individual. Reg. 1.213-1(e)(2) provides that the deduction applies only to medicines and drugs that are legally procured. Rev. Rul. 97-9, 1997-1 CB 77 states that even though a controlled substance may be purchased for medical purposes under state law, if it is in violation of federal law, it is not considered to be “legally procured”. Even if Don is legally prescribed marijuana by his doctor under state law, it will not be deductible as a medical expense.

61. *Medical Expense Deduction (can be solved using Checkpoint® or a similar service)*

Charlene provides 100 percent of the support for her elderly handicapped mother, Amanda. Amanda insists on living alone in her own apartment even though she has a severe hearing impairment. Amanda has always liked cats, so Charlene purchased a cat that is registered as a hearing assistance animal with the county animal control division. The cat is trained to respond to unusual sounds in an instantaneous and directional manner, alerting Amanda to possible dangers. Charlene paid \$800 for the cat and an additional \$1,000 for special training. The maintenance costs for the cat are \$15 a week. Charlene would like to know if any of these costs qualify as deductible expenses.

Hint: Rev. Rul. 55-261, 1955-1 CB 307, Rev. Rul. 68-295, 1968-1 CB 92, and PLR 8033038.

Issue: What type of deduction, if any, does Charlene have for the costs of acquisition, training, and maintenance of the hearing assistance cat provided to her dependent mother?

Conclusion: Charlene will be permitted a medical expense deduction for the costs incurred for the acquisition, training, and maintenance of the hearing assistance cat provided to her dependent mother.

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Discussion of Reasoning and Authority: Rev. Rul. 55-261, 1955-1 CB 307 provides that an amount paid primarily for the purpose of affecting some structure or function of the body is allowable as a medical expense deduction. Such expenses include a “seeing-eye” dog and its maintenance. Rev. Rul. 68-295, 1968-1 CB 92 states that amounts paid to acquire, train, and maintain a dog to assist a dependent who is deaf are deductible as medical expenses as provided under Section 213. Furthermore, Private Letter Ruling 8033038 specifically allows a deduction for amounts paid for the acquisition, training and maintenance of a cat whose purpose is to assist a taxpayer that has a severe hearing loss. As such, the costs incurred by Charlene for the acquisition, training, and maintenance of the hearing assistance cat will be deductible as medical expenses.

62. *Dependent Care Credit (can be solved using Checkpoint® or a similar service)*

Howard is a single parent with an 11-year-old dependent son. The son currently attends sixth grade at public school. Howard accepts a temporary foreign assignment from his employer, which is expected to last from August through December. Because of the unstable political environment in the foreign country, Howard is uncomfortable taking his son with him. Therefore, Howard decides to send his son to a boarding school for the fall term at a cost of \$5,000, of which \$3,000 is for tuition and \$2,000 is for room, board, and care. Will the \$5,000 qualify for the dependent care credit?

Hint: *Brown v. Comm.* 73 TC 156 (1979) and Reg. Sec. 1.21-1(d)(12).

Issue: Will any of the costs associated with the boarding school for Howard’s son qualify for the dependent care credit?

Conclusion: Only the \$2,000 portion of expenses related to room, board, and care will qualify for the dependent care credit.

Discussion of Reasoning and Authorities: In *Brown v. Comm.* 73 TC 156 (1979), the taxpayer felt that she was prevented from working while her son attended public school. Her concern was that she had to be readily available to pick him up if problems arose at school. Section 1.214A-1(c)(1)(i) states that expenses are considered to be employment-related expenses only if they are incurred to enable the taxpayer to be gainfully employed and are paid for the care of one or more qualifying individuals. Example 2 in the regulation provides a scenario wherein the taxpayer has a dependent child who has been attending public school. The taxpayer who has been working part time is offered a position involving full-time employment which can only be accepted if the child is placed in a boarding school. The taxpayer accepts the position, and the child is sent to boarding school. The expenses paid to the school must be allocated between that part of the expenses which represents care for the child and that part which represents tuition for education. The part of the expense representing care of the child is considered to be incurred for the purpose of permitting the taxpayer to be gainfully employed. Following these guidelines, the court held that the taxpayer would be permitted a deduction for the portion of the expenses attributable to room, board and supervision. However, there were two dissenting opinions. Subsequent to 1975, Section 214 was repealed and replaced by a tax credit for dependent care expenses. In that Howard can only accept the foreign assignment if his son is placed in boarding school, his situation should meet the requirement of “permitting the taxpayer to be gainfully employed.” Thus, the \$2,000 portion that is for room, board, and care should qualify for the dependent care credit. The \$3,000 tuition does not qualify for the credit.

63. *Dependent Care Credit (can be solved using free Internet sources)*

Sarah pays \$800 per month for her five-year-old daughter to attend a private kindergarten from 8:30 a.m. until 2:30 p.m. and after-school care until 5:30 p.m. The price of the kindergarten without the after-school care is \$500 per month. Assuming Sarah pays the \$800 each month of the year, how much will qualify for the dependent care credit?

Hint: Regulation Section 1.21-1(d)(5)

Issue: Does the cost of kindergarten and after-school care qualify for the dependent care credit?

Conclusion: The costs incurred for Sarah's daughter to attend kindergarten does not qualify but the cost of the after-school care does qualify for the dependent care credit.

Discussion of Reasoning and Authorities: Regulation §1.21-1(d)(5) states that the full amount paid to a nursery school, pre-school, or similar program below the level of kindergarten in which a qualifying child is enrolled is considered as expenses qualifying for the dependent care credit. Educational expenses incurred for a child in the kindergarten or higher are not considered expenses incurred for the care of a qualifying child but expenses for before- or after-school care can qualify. Because Sarah's daughter is in kindergarten, the \$500 per month cost of kindergarten does not qualify but the additional \$300 per month cost of after-school care will qualify for the credit.