

NEWS FROM:



204 EAST 23RD STREET  
NEW YORK, NY 10010  
TEL: 212.685.4600

ONE STAMFORD PL  
263 TRESSER BLVD  
STAMFORD, CT 06  
TEL: 203.564.147

WWW.BUTLERASSOCIATES.COM



# Is tax reform the final straw for alimony?

- The tax deduction for alimony is on the chopping block, eliminating the break for the spouse who pays alimony, and the tax hit for the one who receives it.
- Some 12 million tax returns claimed a deduction for paying alimony in 2015, according to IRS statistics.
- Experts said it is not clear that the House tax reform proposal would generate more revenue. It could, instead, make alimony rarer, and lower the amounts paid.

Reuters

NOVEMBER 10, 2017

As soon as the House of Representatives' proposed tax reform bill had hit the news, divorce lawyer Malcolm Taub's phone started to buzz.

The tax deduction for alimony was on the chopping block, eliminating the break for the spouse who pays alimony, and the tax hit for the one who receives it.

Because it is impossible to know if the provision will make it all the way through the process, or when it will be implemented, Taub said he was going to try to rush through his pending cases before the end of the year to be safe.

"This deduction is a major, major factor in negotiating a settlement, and in terms of what a judge will give. This will dramatically change the landscape," said Taub.

While alimony is getting statistically rarer, Taub said it still figures into most of the divorces he works on in his New York-based practice. Many of his cases involve long-term marriages and high-earning couples where one spouse — typically the wife — stayed at home to raise children.

Some 12 million tax returns claimed a deduction for paying alimony in 2015, according to IRS statistics.

One problem the House proposal seeks to solve is that the number of alimony recipients who claim it as income is far lower — 10 million. The dollar amounts reported do not match either.

But experts said it was not clear that the House tax reform proposal would generate more revenue. It could, instead, make alimony rarer, and lower the amounts paid.

"Payers will be less likely to agree to pay alimony because they will not get the tax break that they had previously received and judges will take the tax consequences into consideration as well, and I believe will order less alimony," said Mary Kay Kisthardt, a professor of matrimonial law at the University of Missouri-Kansas City School of Law.

### *Math divisions*

In one of Chris Chen's pending cases as a Certified Divorce Financial Analyst in Massachusetts, the husband is negotiating to pay \$60,000 a year to his ex-wife. He would currently be able to deduct that amount from his taxable income, making his true cost only \$40,000.

The spouse would pay tax on that \$60,000 as income, but in a lower income bracket, meaning she would owe the IRS \$15,000 and keep \$45,000.

If the proposed tax reform goes through, the husband would not be able to deduct the alimony, meaning it would cost him an extra \$20,000. The wife would get the whole \$60,000 to spend.

But that is not how it would necessarily play out in real life. The paying spouse would be reluctant to pay out as much, while the receiving spouse would be negotiating to hold ground, making tense negotiations even worse.

"There isn't a person out there who has to pay alimony who says they are rich enough to afford an extra \$20,000," said Chen.

Taub just settled a similar case, where the husband was paying \$12,000 a month, but it was costing him \$6,000 net of taxes. The wife was receiving \$8,500 after taxes.

If he were negotiating the deal after tax reform, Taub said, "I'd tell the husband not to pay more than \$6,000," even though that meant the wife would be receiving \$2,500 less per month.

Tax accountant Morris Armstrong, who is also a certified financial planner, based in Connecticut, said it would be more efficient for the IRS to simply enforce the existing tax statutes.

"If the IRS was funded better and allowed to do their jobs, we may not need tax reform," he said.

As it stands, when a divorced couple files tax returns that do not match up, they may each get a letter, said John Dundon, an enrolled agent with a tax practice in Colorado.

"The IRS will say, we're changing your assessment to match the other, or they'll ask them to explain why the amounts don't match," Dundon said.

For Taub, solving the problem involves calling that mismatch what it is: one side is lying.

"That's called tax evasion," he said. "If the IRS wanted to enforce...there probably would be more money to be made that way."

<https://www.cnbc.com/2017/11/10/is-tax-reform-the-final-straw-for-alimony.html>