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1984

PLR/TAM 8401071 - 8401001

PLR 8401024 -- IRC Sec(s). 213, 9/30/1983

Private Letter Rulings

Private Letter Ruling 8401024, 9/30/1983, IRC Sec(s). 213

UIL No. 0213.09-00

Headnote:

Reference(s): [Code Sec. 213:](#)

Private Letter Ruling 8401024

Code Sec. 213 MEDICAL EXPENSES -- what is "medical care"?-- school for learning disability .

A, who has dyslexia, is enrolled in special school. School only accepts students who have specific learning disability as defined in Education for All Handicapped Children Act. School provides professional specialists to aid A. RULED: Expenses for A's tuition and transportation expenses essential to medical care are deductible. School meets requirements of Reg. 1.213-1(e)(1)(v)(a)

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Full Text:

Sep. 30, 1983

This is to respond to a recent letter submitted on your behalf by your authorized representative requesting several rulings concerning the deductibility of medical expenses incurred in connection with your daughter, A, attending X.

We understand the facts to be substantially as follows: You are the parent of A, a minor. A has dyslexia, a learning disability. This condition which is genetically induced, interrupts a child's normal ability to learn. Psychologists who have examined and tested A have recommended that she be placed in a therapeutic school that is highly structured and that will help her to develop her organizational and mathmatic skills.

Following this advice, you enrolled A in X. It has been represented that X, a subsidiary of Y, is approved as a school for the perceptually handicapped by S. X only accepts students who have a "specific learning disability" as that term is defined in the Education for All Handicapped Children Act, section 602(15) 20 U.S.C., section 1401(15) (1978); X does not accept non-handicapped students. The curriculum at X is tailored for children with learning disabilities.

X provides a number of professional specialist to aid A such as neuropsychologists, language therapists, special educators, clinical physchologists, motor-training therapists, and art therapists. A would not normally have the services of such professionals in a public or ordinary private school. The services provided by these professionals are part of the regular program offered to A at X. If A attended most other private schools, the work of such professionals would be considered "special" rather than "regular."

 Section 213(a) of the Code allows, subject to certain limitations not relevant here, a deduction for expenses paid during the taxable year, not compensated for by insurance or otherwise, for the medical care of the taxpayer or the taxpayer's spouse or dependents.

 Section 213(e) of the Code 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; for insurance covering such medical care; or for transportation primarily for and essential to medical care.

Section 1.213-1(e)(1)(ii) of the regulations provides that deductions for expenditures for medical care allowable under section 213 will be confined strictly to expenses incurred primarily for the prevention or alleviation of a physical or mental defect or illness.

Section 1.213-1(e)(1)(v)(a) of the regulations provides, in part, that while 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 the child's condition is such that the resources of the institution for alleviating such mental or physical handicap are a principal reason for the child's presence there. In 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 that is incidental to the special services provided by the school.

In  Rev. Rul. 70-285, 1970-1 C.B. 52, the Service stated in part, that the term special school, as it is used in section 1.213-1(e)(1)(v)(a) of the regulations, is a limited category within the broader term "institution". The curriculum of a special school may include some ordinary education, but this must be incidental to the primary purpose of the school to enable the student to compensate for or overcome a handicap, in order to prepare that student for future normal education and living.

In  Rev. Rul. 78-340, 1978-2 C.B. 124, the Service concluded that a taxpayer whose child has severe learning disabilities caused by a neurological disorder may deduct as a medical expense amounts paid upon recommendation of the child's doctor for tuition fees for the child's education at a special school that has a program designed to educate children with such disabilities so that they can return to a regular school within a few years.

Accordingly, based on the information submitted, we conclude that X is a special school within the meaning of section 1.213-1(e)(1)(v)(a) of the regulations. We further conclude that the expenses you incur for your daughter's tuition for Xacademic year program, summer school program, tutoring services and transportation costs to and from X, to the extent such transportation expenses are primarily for and essential to the medical care of your daughter are deductible in the manner and to the extent provided by  section 213 of the Code.

No opinion is expressed as to the federal income tax consequences of the transaction described above under any other provisions of the Internal Revenue Code.

You should attach a copy of this ruling to your tax return for the first taxable year in which the transactions covered by this ruling are consummated. We are enclosing a copy for that purpose.

In accordance with power of attorney submitted, we are sending a copy of this ruling to your authorized representative.