

THE DAILY RECORD

Maryland Family Law Update

TheDailyRecord.com/Maryland-Family-Law

February 2018 Vol. XXIX, No. 2

Feeling the squeeze?

What to expect when the federal tax deduction for alimony goes away
PAGE 4

Inside:

How one state has turned the definition of 'domestic abuse' on its head

PAGE 6



BY STEVE LASH

SLash@TheDailyRecord.com

The federal tax law enacted in December may have spurred a race to the courthouse for divorcing husbands and wives who expect to pay alimony as a result of their coming split.

The law will repeal the decades-old deductibility of alimony payments beginning with court orders issued Jan. 1, 2019. Spouses receiving alimony will no longer have to declare the payments as taxable income beginning in 2019.

Thus, it behooves those who may be on the hook for alimony – and seek its deductibility – to get a judge’s payment order by Dec. 31, family-law attorneys say.

“There is a benefit to getting divorced this year because next year the playing field is going to change,” said Jeffrey N. Greenblatt. “There will be a significant change if the issue of alimony is on the table.”

Beginning in 2019, spouses facing potential alimony orders will fight mightily to keep payments low because they will get no relief from the Internal Revenue Services at tax time, Greenblatt said.

“I think it’s going to be harder to get as much alimony,” said Greenblatt, of Joseph, Greenwald & Laake P.A. in Rockville. “There is no benefit to the payor.”

Greenblatt added it remains to be seen whether alimony recipients will be willing to accept lower payments because they will no longer have to pay income tax on the payments they receive.

But attorney Ferrier R. Stillman said the tax law’s coming treatment of alimony as nontaxable income will create some balance with the loss of the payor’s deduction.

“Payees will not need as much alimony, at least in theory if not in practice,” said Stillman, of Tydings &

“I think it’s going to be harder to get as much alimony. There is no benefit to the payor.”

– Jeffrey N. Greenblatt of Joseph, Greenwald & Laake P.A. in Rockville

Rosenberg LLP in Baltimore. “That does give some negotiating room to the lawyers and parties.”

Stillman said she is “advising all my clients that if they don’t get a settlement agreement by the end of 2018, alimony is going to look very different: It’s not going to be deductible.”

Attorney Mary Ellen Flynn said she anticipates that judges will issue a flurry of alimony orders in December, lest settlement negotiations between divorcing spouses begin anew in January when the deduction will be lost.

“It makes it very chaotic,” said Flynn, of Andalman & Flynn in Silver Spring.

“At the end of the year, there will be a mad rush to settle cases” – and not everyone will make the deadline, she added. “A lot of cases are going to have to start from the beginning with negotiations.”

James D. Milko, chair of the Maryland State Bar Association’s Family and Juvenile Law Section, said the Dec. 31 deadline will have “a psychological effect on people wanting to get deals done when there’s still a window of time” regardless of the amount of money they would actually save due to the deduction.

‘Part of the shpiel’

The Republican-led Senate and House quickly passed the tax bill in the waning weeks of 2017, enabling President Donald Trump to claim victory on a campaign promise to lower taxes. Democrats have assailed the

tax measure as benefiting wealthy Americans and corporations by lowering their tax brackets without providing a similar break for other taxpayers and at the expense of welfare programs.

Flynn said she was “surprised” that lawmakers removed the longstanding deductibility of alimony.

“I just didn’t see that being a concern to Congress,” said Flynn, of Andalman & Flynn in Silver Spring. “People just assumed that would always be the way.”

Milko, of Trainor, Billman, Bennett & Milko LLP in Annapolis, agreed, saying the deductibility of alimony “was just part of the general shpiel that you would tell your clients.”

Greenblatt said the new law might impose a learning curve on judges, who have long factored alimony’s deductibility in issuing payment orders.

“A lot of our judges are going to have difficulty in translating that (lack of deductibility) into what the award should be,” Greenblatt said. “They are going to have to spend a lot more time (calculating).”

Greenblatt said he suspects alimony payors took the hit in the tax law because they are not a “cohesive lobbying group” who can organize and lobby against the provision.

“They (in Congress) had to find some way to reduce the bleeding,” Greenblatt said, referring to the decline in tax revenue under the new law. “There is nobody there (among alimony payors) to fight back.”