

Child A has been diagnosed with several developmental disorders, including Condition 1, Condition 2, Condition 3, and Condition 4. The medication prescribed has apparently been sufficient to overcome Condition 4. This diagnosis covers a wide range of learning, social, and psychiatric difficulties for Child A. Importantly, extensive testing shows Child A has severe Condition 1. The neuropsychologist performing the tests concluded that Child A needed an educational environment that is more therapeutic and specialized to Child A's disabilities than Child A was receiving in the special education program at Child A's public school.

Taxpayers enrolled Child A in School X at the beginning of tenth grade. School X was established to assist its students in overcoming Condition 1 as well other neurological conditions. School X only accepts students with these documented conditions. Specifically, students enrolled in School X do not have strong visual/spatial abilities and this severely limits their ability to process information in typical classroom settings. However, the students enrolled in School X generally do have strong auditory processing strengths. School X's teaching techniques focus on its student's auditory strengths and its techniques are not designed on presenting information in a visual manner. Additionally, School X employs additional professionals such as special-education teachers, mental health specialists, a speech pathologist, and an occupational therapist to augment its classroom teachers.

School X's required core curriculum includes specialized instruction that emphasizes basic skill development in the areas of reading comprehension, writing, research, organization, and math. School X's curriculum also includes a heavy emphasis on social and life skill development specifically targeting emotional regulation, conflict resolution, communication, and independent living. School X's program is designed to assist its students in overcoming their disabilities by using techniques that help its students develop appropriate social and educational skills that will assist them in their pursuit of higher education.

LAW AND ANALYSIS

Section 213(a) provides that expenses paid during the taxable year, not compensated for by insurance or otherwise, for medical care of the taxpayer, the taxpayer's spouse, and dependents (as defined in §152) are deductible to the extent such expenses exceed 7.5 percent of adjusted gross income.

Section 213(d)(1)(A) defines "medical care" 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.

Section 1.213-1(e)(1)(v)(a) of the Income Tax Regulations provides that ordinary education is not medical care. However, 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. If this provision applies, the cost of attending such a special school includes the cost of meals and lodging, and the cost of ordinary education furnished which is incidental to the special services furnished by the school. Thus, 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, such as a school for the teaching of braille or lip reading.

Rev. Rul. 70-285, 1970-1 C.B. 52, interprets the term "special school" in the regulations as a limited category of the term "institution." It concludes that the distinguishing characteristic of a special school is the substantive content of its curriculum, which may include some ordinary education, but only if the ordinary education is incidental to the primary purpose of the school of enabling the student to compensate for or overcome a handicap. Accordingly, the ruling concludes that the taxpayer may deduct as a medical expense the cost of his mentally handicapped child's participation in a specially designed, self-contained course designed to meet the child's needs.

Rev. Rul. 78-340, 1978-2 C.B. 124, involves amounts paid by a taxpayer for the education of a child with severe learning disabilities that resulted in reading difficulties. The child's doctor recommended that the child attend a special school that offered a program to educate children with severe learning disabilities so that they can return to a regular school. The ruling holds that the tuition fees for attending the school are deductible expenses for the child's medical care.

In Greisdorf v. Commissioner, 54 T.C. 1684 (1970), acq. 1970-2 C.B. XIX, the petitioner-wife's daughter, Elizabeth, a girl of average to above-average intelligence, felt rejected due to her parents' divorce and felt responsible for her father's subsequent suicide. This resulted in her withdrawing from reality and being incapable of functioning normally at school. In addition, Elizabeth was subject to severe emotional outbursts; she lost interest in personal relationships; and, she did not engage in activities that were normal for a girl of her age. Upon the recommendation of a psychiatrist, the petitioners enrolled Elizabeth in a private school which specialized in treating children with emotional handicaps and in remedying their learning disabilities. The court held that the school was a "special school" within the meaning of § 1.213-1(e)(1)(v)(a) and that Elizabeth "was sent to the institution to further her (medical) treatment" and "the scholastic program that was developed for her there was carefully designed to provide the necessary services to eliminate the emotional barriers to her future normal scholastic success". Accordingly, the Court concluded that the tuition paid by the petitioners' during the year in issue was expended for medical care within the meaning of § 213(e)(1).

CONCLUSION

Accordingly, based strictly on the information submitted and your representations, we conclude that School X utilizes special teaching techniques to assist its students in overcoming Condition 1. These techniques along with the care of other staff professionals are the principal reasons for Child A attending School X. Further, we conclude that School X is a “special school” within the meaning of § 1.213-1(e)(1)(v)(a) and that the expenses incurred by Taxpayers for Child A’s tuition at School X in those years Child A is diagnosed as having a medical condition that handicaps Child A’s ability to learn are deductible under § 213(a).

CAVEATS:

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the ruling request, it is subject to verification on examination.

Sincerely,

Thomas D. Moffitt
Branch Chief, Branch 2
Office of Associate Chief Counsel
(Income Tax & Accounting)