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Legal Matters®

IRS cracks down on alimony

People who pay alimony are allowed to declare it on their income tax return and take a deduction. In the same way, people who receive alimony are required to report the amount they receive on their tax return as income.

But it appears many taxpayers are not being completely accurate when they report these amounts.

A recent government report identified a huge national gap between the alimony deductions claimed by payers and the alimony income claimed by receivers. And as a result, the Internal Revenue Service is cracking down.

The report analyzed nearly 600,000 tax returns involving alimony that were filed recently, and found that reported deductions exceeded reported income by more than \$2 billion. In fact, *nearly half* of all returns in the study showed discrepancies between the amount the payers claimed as a deduction and the amount the recipients claimed to have received.

In addition, a large number of alimony payers didn't provide a tax ID number for

the recipient on their tax return – despite the fact that they're legally required to do so.

In response, the IRS has announced that it's changing the way it selects tax returns for audits in order to catch more suspicious returns involving alimony, and it will more thoroughly investigate taxpayers who might be misreporting their payments.

The agency is also planning to increase the penalties for taking an alimony deduction without providing the recipient's tax ID.

Of course, not everybody who over-reports payments or under-reports receipts is doing so maliciously. A lot of the discrepancies stem from simple misunderstandings about what counts as alimony in the first place.

For instance, alimony is treated differently from child support for tax purposes – there's no tax deduction for child support payments. But sometimes people combine payments of alimony and child support, and then get



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mixed up over how much was for each.

There have been cases where spouses have bought items for an ex or paid bills to a third party in lieu of making direct alimony payments. This can create a lot of confusion. There can also be confusion if a spouse falls behind on alimony in one tax year and then makes up the difference in another tax year.

And it's important to note that the tax deduction for alimony only applies to

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Many still unaware that Medicare covers chronic conditions

A lot of health care providers still don't know that the law has changed, and that Medicare now covers many skilled nursing, home health care and therapy services even if they simply maintain a person's health and don't improve their condition.

This is very important for seniors who suffer from diabetes, heart disease, Alzheimer's disease, multiple sclerosis, Parkinson's disease, Lou Gehrig's disease, arthritis, or the effects of a stroke, among other conditions.

Although the government launched an educational campaign about the change earlier this year, it appears a large number of providers are still in the dark and are refusing to provide treatment on the grounds that Medicare won't cover it.

For decades, Medicare had a "rule of thumb" that coverage of skilled nursing, home health care and outpatient therapy services was available only if they

were likely to improve the patient's condition. Other treatments were considered "custodial care" and ineligible for coverage.

Now, however, seniors who are enrolled in Part A, which covers hospitalizations, are eligible for up to 100 days in a skilled nursing facility (as long as it follows a three-day hospitalization), as well as up to 100 home visits following a hospitalization – even if the services will simply maintain the person's health at its current level.

Seniors who are enrolled in Part B, which covers doctor visits and other outpatient services, are eligible for potentially unlimited home visits.

In addition, you should be aware that anyone who applied for Medicare benefits after January 18, 2011 and was denied payment due to the "rule of thumb" can now have that denial reviewed under the new rules.

Some people have tried to change their will by crossing out parts and writing in others. Not only are these changes unlikely to work, but they can result in the entire will becoming invalid.

Be careful if you want to make changes to your will

If an estate plan isn't kept current, it can become useless. You always want to make sure your will is up-to-date with your wishes, your financial circumstances, and current tax and other laws.

However, it's important to keep in mind that changing a will is not a "do-it-yourself" process. Generally, any changes to your will must be made with the same formalities as the will itself, including witnesses and signatures.

In the past, some people have tried to make changes to their will by simply crossing out some parts and writing in others. Not only are these changes unlikely to be legally effective, but in some circumstances they can result in the entire will being declared invalid. At the very least, they can result in a lengthy and expensive court proceeding to sort out your wishes.

If you only want to make a simple, specific alteration – such as naming a different executor or

updating a child's name that has changed – a codicil may be appropriate. A codicil is a separate, short document that makes an amendment to a will. The benefit of a codicil is that it is usually cheaper and easier than redoing the entire will.

However, a codicil still has to be formally dated, signed and witnessed. Be sure to always keep the codicil with the will so your personal representative can find it easily.

If you have a significant change to make to your will, such as adding or removing a beneficiary, or if you have more than one change to make, it's generally better to simply write a new will. The updated will should include the date and a clear statement that all previous wills and codicils are revoked.

As always, before you make any changes to your will, you should consult with an attorney.

IRS is cracking down on alimony payments

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payments that are legally *required* under a divorce agreement. If you make a payment to an ex-spouse that isn't legally necessary, it doesn't count as "alimony" even if you intended it for his or her support.

If you or someone you know has questions about how much alimony should be reported on a tax return – especially if you believe an ex-spouse is reporting a different amount – it would be wise to ask for advice. That's a lot easier than having to straighten things out later with an IRS agent!

Protections given to disabled workers are expanding

Under the federal Americans with Disabilities Act, workers who are otherwise qualified for a job but who have a disability may have to be given "reasonable accommodations" that enable them to do the work.

That means that if a disabled worker needs a flexible schedule, a more handicap-accessible workplace, or minor alterations to job duties, the employer has to allow them, as long as they don't overly burden the business.

For example, Jane Harris worked as a resale steel buyer for the Ford Motor Company. She also suffered from a severe case of irritable bowel syndrome, which often made it difficult for her to commute and work in an office.

When Harris asked to be able to telecommute due to her condition, Ford refused, claiming that her physical presence in the office was essential to her job.

Eventually she sued, and a federal appeals court in Ohio allowed her lawsuit to go forward. The court said she might have a good case because technology has improved and the types of jobs that an employee can do while telecommuting have expanded considerably in recent years.

In another case, a chemical engineer in Illinois suffered from ADHD and bipolar disorder. To accommodate her medication schedule, her employer had allowed her to start work at 10 a.m. But after

two years, a new supervisor arrived and ordered her to show up at 8:30 a.m. She was eventually fired for violating the new attendance policy.

A federal court allowed her to sue, though, saying that the 10 a.m. start time was apparently a reasonable accommodation since it had worked well for two years.

And did you know that a worker doesn't actually have to be disabled to be protected by the law – as long as the employer *thinks* the worker is disabled?

For example, a sales consultant in Nevada told his manager that he needed to take medical leave to have knee surgery, and that he would be out for at most a week. But the manager apparently didn't believe him, and thought the surgery would leave him unable to work for a much longer time. The manager fired him, and said he could return later but only if he provided a doctor's note releasing him to work.

A federal judge allowed the employee to sue. Even though the employee wasn't actually disabled, his employer *believed* he had a serious disability, and so he was protected by the law.



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FHA plans to reduce mortgage insurance for many borrowers

One of the simplest ways for a first-time homebuyer to obtain a mortgage is with a loan insured by the Federal Housing Administration. FHA loans often require a down payment of as little as 3.5 percent, and can be obtained in many cases by people who have iffy credit or a bankruptcy in their past.

The catch is that borrowers have to pay mortgage insurance. Actually, they usually have to pay two types of insurance – an upfront payment of 1.75 percent of the loan amount (which can be rolled into the loan), and a monthly payment that depends on the length of the loan and the amount of the down payment, but can be as much as 1.35 percent annually.

Recently, though, the FHA announced a plan to reduce the insurance rates for first-time homebuyers who agree to participate in financial and credit

counseling. The program is called "Homeowners Armed With Knowledge," or HAWK.

First-time buyers must complete six hours of counseling at least 10 days before signing a sales agreement, and another hour of counseling at least three days before closing. In return, they'll get a .5 percent reduction in the upfront payment and a .1 percent reduction in their monthly payments.

Owners who complete another hour of counseling in the first year of ownership and don't fall behind in their payments for two years can get an additional .15 percent monthly payment reduction.

The FHA says that educated borrowers are 30% less likely to run into trouble with a mortgage, so it expects the counseling program to lead to cost savings in the long run.

Information for this article was gathered from the Federal Housing Administration's website, www.fha.gov, and other sources. The author is not a financial advisor and does not provide financial advice. This article is for informational purposes only and should not be used as a substitute for professional advice. Please consult your financial advisor for more information.

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Injured? Never just assume there's not enough insurance

Many people get into an automobile accident, and later find out that the other driver doesn't have enough insurance to pay for all their injuries and vehicle damage.

But you should never just assume that you're out of luck. You should always talk to a lawyer who can investigate the situation, because it may turn out that there's more insurance coverage than you initially thought.

In one recent case, a driver in Florida caused an accident and it appeared there wasn't enough insurance to cover all the injuries to him and to the other driver.

But an investigation revealed that the driver had been volunteering that day for a non-profit youth group on a local clean-up project. The volunteer had planned to photograph the end result, but realized he had left his camera at home. He went back to get it, took the pictures,

and headed home once again, which is when the accident occurred.

It turned out that the youth group had purchased insurance to cover

volunteers – so the accident may have been covered by the policy that the group had purchased for just this sort of situation.

Initially, the insurance company refused to pay. It said that while the man had been a registered volunteer with the organization for decades, he wasn't acting as a volunteer at the time of the accident because he was on his way home after the event.

But a Florida appeals court decided that the man might have still been participating in the larger clean-up activity, because he would have developed the photos and provided them to the organization once he got home – if not for the accident.



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