

Internal Revenue Code Section 71(b)(2)(B)

Alimony and separate maintenance payments.

- (a) General rule. Gross income includes amounts received as alimony or separate maintenance payments.
- (b) Alimony or separate maintenance payments defined. For purposes of this section—
 - (1) In general. The term "alimony or separate maintenance payment" means any payment in cash if—
 - (A) such payment is received by (or on behalf of) a spouse under a divorce or separation instrument,
 - (B) the divorce or separation instrument does not designate such payment as a payment which is not includible in gross income under this section and not allowable as a deduction under section 215,
 - (C) in the case of an individual legally separated from his spouse under a decree of divorce or of separate maintenance, the payee spouse and the payor spouse are not members of the same household at the time such payment is made, and
 - (D) there is no liability to make any such payment for any period after the death of the payee spouse and there is no liability to make any payment (in cash or property) as a substitute for such payments after the death of the payee spouse.
 - (2) Divorce or separation instrument. The term "divorce or separation instrument" means—
 - (A) a decree of divorce or separate maintenance or a written instrument incident to such a decree,
 - (B) a written separation agreement, or
 - (C) a decree (not described in subparagraph (A)) requiring a spouse to make payments for the support or maintenance of the other spouse.

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