

### Revenue Ruling 83-33

#### Section 213.-Medical, Dental, etc., Expenses

**Medical expenses; swimming pool; capital expenditures.** Taxpayer's cost of constructing a special exercise or "lap" swimming pool to treat severe osteoarthritis, to the extent the expenditure exceeds any resulting increase in the value of taxpayer's related property, is deductible as a medical expense under *section 213 of the Code*. *Rev. Ruls. 54-57, 1954-1 C.B. 67* and *59-411, 1959-2 C.B. 100* modified.

#### ISSUE

Are expenditures for the costs of constructing, operating, and maintaining an exercise pool deductible as medical expenses under *section 213 of the Internal Revenue Code*?

#### FACTS

A, an individual, has severe osteoarthritis, a degenerative disease that results in a progressive weakness and decreased use of the knees and legs. To slow the effects of this disease, A's physician prescribed a treatment of swimming several times a day. A constructed an indoor "lap" pool in order to follow the prescribed, daily exercise.

The pool, which is attached to A's residence, is 8 feet wide by 36 feet long and varies in depth from approximately 3 feet to 5 feet. The pool does not have a diving board and is not suitable for general recreational use. The stairs for the pool are specially designed [\*2] with wider steps and smaller risers to enable A to safely enter and emerge from the pool. The pool also has a hydrotherapy device to aid in A's treatment.

#### LAW AND ANALYSIS

*Section 213 (a) of the Code* allows a deduction in computing taxable income for expenses paid during the taxable year, not compensated for by insurance or otherwise, for medical care of the taxpayer, the taxpayer's spouse, or a dependent, subject to certain limitations. The term "medical care" is defined by *section 213 (e)* to include amounts paid for the diagnosis, cure, mitigation, treatment, or prevention of disease, for the purpose of affecting any structure or function of the body, or for transportation primarily for and essential to these purposes.

*Section 1.213-1 (e) (1) (ii) of the Income Tax Regulations* provides, in part, that deductions for expenditures for medical care allowable under *section 213 of the Code* will be confined strictly to expenses incurred primarily for the prevention or alleviation of a physical or mental defect or illness. However, an expenditure that is merely beneficial to the general health of an individual is not an expenditure for medical care.

*Section 1.213-1 (e) (1) (iii) of the regulations* [\*3] provides, in part, that capital expenditures are generally not deductible for federal income tax purposes. See *section 263 of the Code* and the regulations thereunder. However, an expenditure that otherwise qualifies as a

medical expense under *section 213* shall not be disqualified merely because it is a capital expenditure. Moreover, a capital expenditure for permanent improvement or betterment of property that would, not ordinarily be for the purpose of medical care may, nevertheless, qualify as a medical expense to the extent that the expenditure exceeds the increase in the value of the related property, if the particular expenditure is related directly to medical care.

The test whether a capital expenditure is deductible under *section 213 of the Code* as a medical expense is whether the expenditure is incurred for the primary purpose of, and is related directly to, the taxpayer's medical care.

The courts have distinguished personal expenditures' that are merely beneficial to the general health of the individual from those that have as their purpose medical care, the prevention or alleviation of a physical or mental defect or illness. Thus, not every expenditure prescribed by a physician [\*4] or for the physical comfort of the individual will be considered a medical expense. *Seymour v. Commissioner, 14 T.C. 1111 (1950)*. For example, the costs of transportation expenses to and from a golf course where golf was recommended for a victim of pulmonary emphysema are not deductible. *Altman v. Commissioner, 53 T.C. 487 (1969)*. The costs of vacations or athletic club fees, while beneficial to the general health of a taxpayer, are also nondeductible personal or living expenses under *section 262* of the Code. *Havey v. Commissioner, 12 T.C. 409 (1949)*. An expenditure that merely serves the convenience of the taxpayer is not considered a medical expense. *Worden v. Commissioner, T.C.M. 1981-366*. Deductions under *section 213 (e)* are confined strictly to expenditures for medical care.

In the present situation, A's physician prescribed swimming in order to alleviate A's osteoarthritis. In order to follow the prescribed treatment, A constructed a shallow "lap" pool incorporating specially designed stairs for ease of entry and exit and a hydrotherapy device. The specially designed exercise pool is not suitable for general recreational use.

## HOLDINGS

A's cost of the pool is an expenditure incurred [\*5] for the primary purpose of, and is directly related to, the taxpayer's medical care and, to the extent the expenditure exceeds the increase in value of A's property as a result of the installation, is deductible under *section 213 of the Code*.

A's costs to operate and maintain the special purpose exercise pool are deductible in the tax year paid as medical expense under *section 213 of the Code*.

## EFFECTS ON OTHER RULINGS

*Rev. Rul. 54-57, 1954-1 C.B. 67*, holds that a deduction is not available for capital expenditures that increase the value of the taxpayer's property. *Rev. Rul. 59-411, 1959-2 C.B. 100*, holds that expenditures made for medical purposes will not be disallowed merely because they are of a capital nature. *Rev. Ruls. 54-57, 1954-1 C.B. 67* and *59-411, 1959-2 C.B. 100* are modified to the extent they indicate that a capital expenditure for medical purposes may only be deducted as a medical expense if it does not increase the value of the taxpayer's property.