

Section 213.—Medical, Dental, etc., Expenses

26 CFR 1.213-1: Medical, dental, etc., expenses.

Medical expenses. Amounts paid by individuals for procedures that are directed to improving appearance and do not promote the proper function of the body are not expenses for medical care deductible under section 213 of the Code unless the procedure is necessary to correct a deformity arising from a birth defect, disfiguring disease, or injury. Therefore, breast reconstruction surgery following a mastectomy for cancer and vision correction surgery such as LASIK are deductible under section 213, but teeth whitening procedures are not deductible under section 213.

Rev. Rul. 2003-57

ISSUE

Are amounts paid by individuals for breast reconstruction surgery, vision correction surgery, and teeth whitening medical care expenses within the meaning of § 213(d) and deductible under § 213 of the Internal Revenue Code?

FACTS

Taxpayer *A* undergoes mastectomy surgery that removes a breast as part of treatment for cancer and pays a surgeon to reconstruct the breast. Taxpayer *B* wears glasses to correct myopia and pays a doctor to perform laser eye surgery to correct the myopia. Taxpayer *C*'s teeth are discolored as a result of age. *C* pays a dentist to perform a teeth-whitening procedure. *A*, *B*, and *C* are not compensated for their expenses by insurance or otherwise.

LAW AND ANALYSIS

Section 213(a) allows a deduction for expenses paid during the taxable year, not compensated for by insurance or otherwise, for medical care of the taxpayer, spouse, or dependent, to the extent the expenses exceed 7.5 percent of adjusted gross income. Under § 213(d)(1)(A), medical care includes 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.

Medical care does not include cosmetic surgery or other similar procedures, unless the surgery or procedure is necessary to ameliorate a deformity arising from, or directly related to, a congenital abnormality, a personal injury resulting from an accident or trauma, or a disfiguring disease. Section 213(d)(9)(A). Cosmetic surgery means any procedure that is directed at improving the patient's appearance and does not meaningfully promote the proper function of the body or prevent or treat illness or disease. Section 213(d)(9)(B).

A's cancer is a disfiguring disease because the treatment results in the loss of *A*'s breast. Accordingly, the breast reconstruction surgery ameliorates a deformity directly related to a disease and the cost is an expense for medical care within the meaning of § 213(d) that *A* may deduct under § 213 (subject to the limitations of that section).

The cost of *B*'s laser eye surgery is allowed under § 213(d)(9) because the surgery is a procedure that meaningfully promotes the proper function of the body. Vision correction with eyeglasses or contact lenses qualifies as medical care. See Rev. Rul. 74-429, 1974-2 C.B. 83. Eye surgery to correct defective vision, including laser procedures such as LASIK and radial keratotomy, corrects a dysfunction of the body. Accordingly, the cost of the laser eye surgery is an expense for medical care within the meaning of § 213(d) that *B* may deduct under § 213 (subject to the limitations of that section).

In contrast, the teeth-whitening procedure does not treat a physical or mental disease or promote the proper function of the body, but is directed at improving *C*'s appearance. The discoloration is not a deformity and is not caused by a disfiguring disease or treatment. Accordingly, *C* may not deduct the cost of whitening teeth as an expense for medical care.

HOLDING

Amounts paid by individuals for breast reconstruction surgery following a mastectomy for cancer and for vision correction surgery are medical care expenses under § 213(d) and are deductible under § 213 (subject to the limitations of that section). Amounts paid by individuals to whiten teeth

discolored as a result of age are not medical care expenses under § 213(d) and are not deductible.

DRAFTING INFORMATION

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