**8527. When is an individual taxpayer entitled to a deduction for medical expenses?**

A taxpayer who itemizes deductions can deduct unreimbursed expenses for “medical care” (the term “medical care” includes dental care) and expenses for *prescribed* drugs or insulin for himself, spouse and dependents. The deduction is only allowed to the extent that such expenses exceed 10 percent of adjusted gross income for the tax year. (On a joint return, the 10 percent floor amount is based on the combined adjusted gross income of husband and wife).

To determine whether the taxpayer is entitled to a deduction, the taxpayer first determines net unreimbursed expenses by subtracting all reimbursements received during the year from total expenses for medical care paid during the year. The taxpayer must then subtract 10 percent of the taxpayer’s adjusted gross income from net unreimbursed medical expenses. Only the balance, if any, is deductible.[[1]](#footnote-1) The deduction for medical expenses is not subject to the phase-out in itemized deductions for certain upper income taxpayers. (See [Q 8520](http://pro.moss.nuco.com/taxfacts2013/tfins/p1-fit/genrul/ded/Pages/0464-00-tf1.aspx)).

Though the 7.5 percent threshold increased to 10 percent in 2013, taxpayers can continue to use the 7.5 percent threshold through 2016 if the taxpayer or the taxpayer’s spouse has attained age 65 before the end of the taxable year.

“Medical care” is defined as amounts paid: (a) for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body; (b) for transportation primarily for and essential to such medical care; (c) for qualified long-term services; or (d) for insurance covering such care or for any qualified long-term care insurance contract.[[2]](#footnote-2)

The IRS has ruled that amounts paid for diagnostic and certain similar procedures and devices are deductible medical care expenses, provided that they are not compensated by insurance or otherwise, even though the individuals had no symptoms of illness prior to incurring the expense. According to the IRS, this includes an annual physical examination, a full-body electronic scan and a pregnancy test.[[3]](#footnote-3)

The term “medical care” does not include cosmetic surgery or other similar procedures unless necessary to correct a deformity resulting from a congenital abnormality, a personal injury resulting from accident or trauma, or a disfiguring disease.[[4]](#footnote-4) Despite this general rule, in *Al-Murshidi v. Comm.*,[[5]](#footnote-5) the surgical removal of excess skin from a formerly obese individual was not found to be “cosmetic surgery” for purposes of IRC Section 213(d)(9)(A) because the procedures meaningfully promoted the proper function of the individual’s body and treated her disease. Therefore, the costs of the surgical procedures were deductible despite the “cosmetic surgery” classification given to the procedures by the surgeon.

A taxpayer can deduct the medical expenses paid for a dependent (within the specified limits) even though the taxpayer is not entitled to a dependency exemption. The fact that the dependent’s income for the year exceeds $3,950 is immaterial so long as the taxpayer has furnished over one-half of his support during that tax year. A child of parents who are divorced (or in some situations, separated) *and* who between them provide more than one-half of the child’s support for the calendar year and have custody of the child for more than one-half of the calendar year will be treated as a dependent of both parents for purposes of this deduction.[[6]](#footnote-6) In the case of a multiple support agreement, however, only the person designated to take the dependency exemption may deduct the dependent’s medical expenses, and then only to the extent that he actually paid the expenses.[[7]](#footnote-7) See Q 8514 for a discussion of which parent is entitled to take the dependency exemption.

Deductible medical expenses include amounts paid for lodging, up to $50 per individual per night, when being away from home is *primarily for and essential to* medical care if such care is provided by a physician in a licensed hospital (or similar medical care facility) and there is no element of personal pleasure, recreation or vacation in the travel away from home. No deduction is allowed if the lodgings are “lavish or extravagant.”[[8]](#footnote-8) A mother was permitted to deduct lodging expenses incurred when her child was receiving medical care away from home and her presence was essential to such care.[[9]](#footnote-9) A parent’s costs of attending a medical conference (i.e., registration fee, transportation costs) to obtain information about a chronic disease affecting the parent’s child were deductible so long as the costs were primarily for and essential to the medical care of the dependent. However, the costs of meals and lodging incurred by the parent while attending the conference were not deductible.[[10]](#footnote-10) The IRS has privately ruled that taxpayers could deduct special education tuition for their children as a medical care expense where the children attended a school primarily to receive medical care in the form of special education and each child had been diagnosed as having a medical condition that handicapped the child’s ability to learn in the years in which tuition was paid.[[11]](#footnote-11)

Generally, medical expenses are deductible only in the year they are paid, regardless of when the expenses are incurred. Despite this, in *Zipkin v. U.S.*, expenses incurred by a taxpayer to build a home to meet his wife’s special health needs were properly deducted in the year the home became habitable, even though the costs had been paid in earlier years.[[12]](#footnote-12) Costs paid by parents to modify a van used to transport their handicapped child were deductible in the year those costs were paid; however, the court held that depreciation was not a deductible medical expense.[[13]](#footnote-13)

Medical expenses of a decedent paid out of the estate within one year from date of death are considered paid by the decedent at the time the expenses were incurred.[[14]](#footnote-14) A decedent’s medical expenses cannot be taken as an income tax deduction unless a statement is filed waiving the right to deduct them for estate tax purposes. Amounts that are not deductible under IRC Section 213 may not be treated as deductible medical expenses for estate tax purposes. Thus, expenses that do not exceed the 10 percent floor are not deductible.[[15]](#footnote-15)

The Social Security hospital tax that an individual pays as an employee or self-employed person cannot be deducted as a medical expense.[[16]](#footnote-16) Conversely, a 65-year-old who has signed up for the supplementary medical plan under Medicare can treat his monthly premiums as amounts paid for insurance covering medical care.[[17]](#footnote-17) Premiums paid for Medicare Part D, the voluntary prescription drug insurance program that went into effect on January 1, 2006, are included in the definition of medical expenses.[[18]](#footnote-18)

The unreimbursed portion of an entrance fee for life care in a residential retirement facility that is allocable to future medical care is also deductible as a medical expense in the year paid (but, if the resident leaves the facility and receives a refund, the refund is includable in gross income to the extent it is attributable to the deduction previously allowed).[[19]](#footnote-19) Either the percentage method or the actuarial method may be used to calculate the portions of monthly service fees (paid for lifetime residence in a continuing care retirement community) allocable to medical care.[[20]](#footnote-20) Despite this, a federal district court held that none of the entrance fee paid by married taxpayers to an assisted living facility was properly deductible as a medical expense because: (1) no portion of the entrance fee was attributable to the couple’s medical care; and (2) the entrance fee was structured as a loan, which cannot serve as the basis for a deduction (the court cited *Comm. v. Tufts* in reaching this conclusion[[21]](#footnote-21)).[[22]](#footnote-22)

Amounts paid by an individual for medicines and drugs that can be purchased over-the-counter (without a doctor’s prescription) are not deductible.[[23]](#footnote-23) However, amounts paid by an individual for equipment (e.g., crutches), supplies (e.g., bandages), or diagnostic devices (e.g., blood sugar test kits) may qualify as amounts paid for medical care and may be deductible under IRC Section 213. The IRS has ruled privately that crutches used to mitigate the effect of the taxpayer’s injured leg and blood sugar test kits used to monitor and assist in treating the taxpayer’s diabetes were amounts paid for medical care and deductible.[[24]](#footnote-24)

The costs of nutritional supplements, vitamins, herbal supplements, and “natural medicines” cannot be included in medical expenses unless they are recommended by a doctor as treatment for a specific medical condition diagnosed by a doctor.[[25]](#footnote-25) Certain expenses for smoking cessation programs and products are deductible as a medical expense.[[26]](#footnote-26)

Amounts paid by individuals for breast reconstruction surgery following a mastectomy for cancer and for vision correction surgery are medical care expenses and are deductible. Amounts paid by individuals to whiten teeth discolored as a result of age are not medical care expenses and are not deductible.[[27]](#footnote-27)

Costs paid by individuals for participation in a weight-loss program as treatment for a specific disease or diseases (e.g., obesity, hypertension, or heart disease) diagnosed by a physician are deductible as medical expenses. Conversely, the costs of diet food are not deductible.[[28]](#footnote-28) According to IRS Publication 502, this includes fees paid by a taxpayer for membership in a weight reduction group and attendance at periodic meetings. Membership dues for a gym, health club, or spa cannot be included in medical expenses, but separate fees charged for weight loss activities can be included as medical expenses. In informational guidance, the IRS has also stated that taxpayers may deduct exercise expenses, including the cost of equipment to use in the home, if required to treat an illness (including obesity) diagnosed by a physician. For an exercise expense to be deductible, the taxpayer must establish the purpose of the expense is to treat a disease rather than to promote general health, and that the taxpayer would not have paid the expense but for this purpose.[[29]](#footnote-29)

Expenses for childbirth classes were deductible as a medical expense to the extent that the class prepared the taxpayer for an active role in the process of childbirth.[[30]](#footnote-30) Egg donor fees and expenses incurred in the process of obtaining a willing egg donor count as medical care expenses that are deductible.[[31]](#footnote-31)

Finally, the cost of prescribed drugs brought in or shipped from another country is deductible only if imported legally. Additionally, the cost of prescribed drugs purchased and consumed in another country are also deductible provided the drug is legal in both the other country and the United States.[[32]](#footnote-32)

1. . IRC Sec. 213. [↑](#footnote-ref-1)
2. . IRC Sec. 213(d)(1). [↑](#footnote-ref-2)
3. . Rev. Rul. 2007-72, 2007-50 IRB 1154. [↑](#footnote-ref-3)
4. . IRC Sec. 213(d)(9); see, e.g., Let. Rul. 200344010. [↑](#footnote-ref-4)
5. . TC Summary Opinion 2001-185. [↑](#footnote-ref-5)
6. . IRC Sec. 213(d)(5). [↑](#footnote-ref-6)
7. . Treas. Reg. §1.213-1(a)(3)(i). [↑](#footnote-ref-7)
8. . IRC Sec. 213(d)(2). [↑](#footnote-ref-8)
9. . Let. Rul. 8516025. [↑](#footnote-ref-9)
10. . Rev. Rul. 2000-24, 2000-19 IRB 963. [↑](#footnote-ref-10)
11. . See Let. Rul. 200521003. See also Let. Rul. 200729019. [↑](#footnote-ref-11)
12. . 2000-2 USTC ¶50,863 (D. Minn. 2000). [↑](#footnote-ref-12)
13. *. Henderson v. Comm.*, TC Memo 2000-321. [↑](#footnote-ref-13)
14. . IRC Sec. 213(c). [↑](#footnote-ref-14)
15. . Rev. Rul. 77-357, 1977-2 CB 328. [↑](#footnote-ref-15)
16. . See IRC Sec. 213(d). [↑](#footnote-ref-16)
17. . Rev. Rul. 66-216, 1966-2 CB 100. [↑](#footnote-ref-17)
18. . See IRS Pub. 502, Medical and Dental Expenses. [↑](#footnote-ref-18)
19. . Rev. Rul. 76-481, 1976-2 CB 82, *as clarified by* Rev. Rul. 93-72, 1993-2 CB 77; Let. Rul. 8641037. [↑](#footnote-ref-19)
20. *. Baker v. Comm*., 122 TC 143 (2004). [↑](#footnote-ref-20)
21. . 461 U.S. 300, 307 (1983). [↑](#footnote-ref-21)
22. *. Finzer v. United States*, 496 F. Supp. 2d 954 (N.D. Ill. 2007). [↑](#footnote-ref-22)
23. . Rev. Rul. 2003-58, 2003-22 IRB 959. [↑](#footnote-ref-23)
24. . Rev. Rul. 2003-58, above; see also IRS Information Letter INFO-2003-169 (6-13-2003). [↑](#footnote-ref-24)
25. . IRS Pub. 502, Medical and Dental Expenses. [↑](#footnote-ref-25)
26. . See Rev. Rul. 99-28, 1999-25 IRB 6. [↑](#footnote-ref-26)
27. . Rev. Rul. 2003-57, 2003-22 IRB 959. [↑](#footnote-ref-27)
28. . Rev. Rul. 2002-19, 2002-16 IRB 778. [↑](#footnote-ref-28)
29. . Information Letter INFO 2003-0202. [↑](#footnote-ref-29)
30. . Let. Rul. 8919009. [↑](#footnote-ref-30)
31. . Let. Rul. 200318017; see also Information Letter INFO 2005-0102 (3-29-2005). [↑](#footnote-ref-31)
32. . IRS Pubublication. 502. [↑](#footnote-ref-32)