

December 1, 2017

Dear Senator,

We, the family law group of Feldesman Tucker Leifer Fidell LLP<sup>1</sup>, urge you to prevent the passage of any legislation that would increase the burden of individuals undergoing separation or divorce. As an organization with decades of family law experience, with attorneys who negotiate alimony issues on a daily basis, we are confident that any legislation eliminating the alimony tax deduction, as proposed by the House Ways and Means Committee in Section 1309 of the Tax Cuts and Jobs Bill of 2017, would impair individuals across the economic spectrum, specifically hurting lower and middle class families.

On the most superficial level, the alimony tax deduction may appear counterintuitive. Why would we deduct income from the higher earning, wealthier spouse (“the payor”) and impute it to the dependent, poorer spouse (“the payee”)? The answer is very simple – it works for everyone.

First, the higher earning spouse benefits because he or she receives a larger tax deduction.

Second, the dependent spouse has a better chance of receiving a reasonable amount of support because the higher earning spouse has an incentive to provide it. In most cases, the higher earning spouse will not provide for the dependent spouse out of the goodness of his or her heart, he or she needs a financial incentive to do so. If Congress removes the tax deductibility of alimony, the dependent spouse will have nothing to negotiate with – save litigation. Alimony amounts will likely decrease, making it harder for the economically vulnerable spouse to become financially independent or to be in a position to provide for a household (alimony is countable as income for lenders and in mortgage applications).

Women still represent the vast majority of alimony recipients. As a result, the future security of many women, particularly poor and middle class women, would be inevitably and irrefutably threatened by removing this basic protection. When lower amounts of alimony become the norm (which they almost certainly would under this proposal), individuals living in oppressive relationships or facing domestic violence will likely find it harder to leave with fewer resources available.

Third, when income is passed to the dependent spouse (via alimony), it gets taxed at a lower rate than it would be taxed at if the income were kept by the higher earning spouse. This transfer saves money for the family as a whole and can act as a vital safety net for lower and middle class families that do not have an abundance of assets to liquidate or divide.

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Due to the belt-tightening effect that eliminating the alimony tax deduction would have on the higher earning spouse, the dependent spouse, and the family as a whole, it will be much more difficult to achieve divorce settlements and the number of litigated cases will likely increase substantially. This increase in litigation will strain the already limited resources of individuals undergoing divorce and judicial systems across the country.

Those facing separation or divorce often face an overwhelming amount of insecurity and financial loss. The alimony tax deduction - an essential aspect of the majority of settlement negotiations - plays an important role in helping to mitigate these effects. It gives individuals a little more leeway to focus on what matters - working to secure a dignified and equitable settlement for them and their children. In conclusion, it is imperative that the alimony tax deduction be preserved.

If you have any questions, comments, or concerns regarding the importance of the alimony tax deduction, I am more than happy to discuss it with you.

Sincerely,



Jonathan M. Dana\*

On behalf of the Family Law Group of  
Feldesman Tucker Leifer Fidell LLP

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<sup>1</sup> We have been representing individuals in divorce cases for decades in the District of Columbia, Maryland, and Virginia. Collectively, our attorneys have nearly two hundred years of family law experience. We know what we are talking about and we urge you to take notice.

\* Jonathan M. Dana has been practicing family law for over thirty years and is licensed in the District of Columbia and Maryland.