

Conference Agreement

The conference agreement follows the Senate amendment.

8. Repeal of deduction for alimony payments and corresponding inclusion in gross income (sec. 1309 of the House bill and secs. 61, 71, and 215 of the Code)

Present Law

Alimony and separate maintenance payments are deductible by the payor spouse and includible in income by the recipient spouse.²³¹ Child support payments are not treated as alimony.²³²

House Bill

Under the House bill, alimony and separate maintenance payments are not deductible by the payor spouse. The House bill repeals the Code provisions that specify that alimony and separate maintenance payments are included in income. Thus, the intent of the provision is to follow the rule of the United States Supreme Court's holding in *Gould v. Gould*,²³³ in which the Court held that such payments are not income to the recipient. Income used for alimony payments is taxed at the rates applicable to the payor spouse rather than the recipient spouse. The treatment of child support is not changed.

Effective date.—The provision is effective for any divorce or separation instrument executed after December 31, 2017, or for any divorce or separation instrument executed on or before December 31, 2017, and modified after that date, if the modification expressly provides that the amendments made by this section apply to such modification.

Senate Amendment

No provision.

Conference Agreement

The conference agreement generally follows the House bill. However, the conference agreement delays the effective date of the provision by one year. Thus, the conference agreement is effective for any divorce or separation instrument executed after December 31, 2018, or for any divorce or separation instrument executed on or before December 31, 2018, and modified after that date, if the modification expressly provides that the amendments made by this section apply to such modification.

²³¹ Secs. 215(a), 61(a)(8) and 71(a).

²³² Sec. 71(c).

²³³ 245 U.S. 151 (1917).