



## DIVORCES PREDICTED TO SURGE IN 2018

Divorce mediation is a process where separated couples negotiate a settlement agreement with the aid of a professionally trained mediator. Mediation will allow the separating and divorcing couples to take control of planning their own lives and make good decisions about their future. However, this may all change with the new tax law.



One of the changes in the new tax law is that spouses paying alimony won't be able to take a deduction while spouses receiving alimony will no longer have to report it as income. The alimony deduction has been in the tax code since 1942.

*The amendments made by this new section shall apply to—*

- 1. any divorce or separation instrument (as defined in section 71(b)(2) of the Internal Revenue Code of 1986 as in effect before the date of the enactment of this Act) executed after December 31, 2018,*
- 2. and any divorce or separation instrument (as so defined) executed on or before such date and modified after such date if the modification expressly provides that the amendments made by this section apply to such modification.*

According to reports from Politico, USA Today and Morningstar, experts in the field are predicting a surge in divorces this year as spouses paying alimony seek to take advantage of the deduction before it is eliminated. Those couples looming in the shadows deciding whether to separate or divorce, just may do so this year in order to take full advantage of the old tax law.

The new tax law change doesn't affect people who divorce or sign a separation agreement before 2019, according to the new tax law.

Spouses negotiating alimony payments may try to pay less when the change takes effect because there will be no tax savings, some experts have expressed. Experts say that women are more likely to be hurt by the change as they negotiate divorce terms.

“The repeal reduces the bargaining power of vulnerable spouses, mostly women, in achieving financial stability after a divorce,” as Politico reported to be said from one attorney.

The U.S. Census Bureau statistics show that 98 percent of the 243,000 people who received alimony payments last year were women.

Along with the concerns of divorce mediators, some divorce lawyers question whether the change will affect prenuptial agreements that had called for payment of a set amount of alimony if there is a divorce.

The positive/negative side-effect, depending on where you stand on the issue, is the elimination of the deduction will lead to higher revenues overall for the government because the person who deducted the alimony was likely in a higher tax bracket than the spouse declaring the alimony as income. Also, eliminating the deduction could also push the alimony payer into a higher tax bracket producing even more revenue.

So, what does this mean for divorce and family mediators? Unfortunately, this is problematic in the realm of divorce mediation, as the tax breaks for spousal support payers was often a good bargaining chip that helped the parties settle their divorce out-of-court.



This has led to reports that many mediators are wondering if, with this bargaining chip gone, fewer settlements will be reached. There are also concerns about people being unable to afford a divorce with these tax breaks gone, people receiving less in the way of spousal support and people being unable to fund their retirement accounts using spousal support payments.

Nonetheless, it is definite that this shows, there are many uncertainties regarding the new tax law. It will remain to be seen exactly how this new law will affect those trying to mediate their divorce. Still, even with the changes to the tax law when it comes to spousal support, it may be possible for couples who wish to settle things out-of-court through divorce mediation to reach an agreement that benefits them both.

In conclusion, divorce mediators and depending on the complexity of the issues, the “win-win” resolution of divorce mediation may no longer exist under the new tax law, and other resolutions will be just barely acceptable to one or both sides. One thing is for sure, the negotiation phase of the mediation process may prove to be extremely more challenging to mediators as they try to help couples get to “yes.” I for one, as a mediator and arbitrator will be carefully monitoring this issue, as to the transformation it may or may not have on future negotiations in reaching a beneficial agreement, if at all for both parties in divorce mediation.