

# DEDUCTING (IN PART) THE COST OF AN ASSISTED LIVING FACILITY

By Kevin Carmichael, MS JD LLM CPA

**W**hen considering whether it is in your interest to enter an Assisted Living Facility (“ALF”) it is important to consider whether all or part of the costs incurred in association with entering an ALF is deductible for tax purposes. In many cases the deductibility of part of the expenses associated with moving to an ALF for tax purposes may be the make or break financial factor. The rules are complex and subject to exceptions so you should discuss the availability of a deduction of all or part of the costs with your tax advisor, prior to signing a contract with an ALF.

## UNDERSTANDING THE MEDICAL EXPENSE DEDUCTION AND ITS LIMITATIONS

Provided you have the ability to itemize your deductions the Internal Revenue Code permits individuals to take a deduction for personal medical expenses and medical expenses paid for dependents which are not reimbursed by insurance. The deduction is limited. In order to take a deduction your total unreimbursed medical expenses in a single tax year must exceed 10% of your adjusted gross income (“AGI”). You can find your AGI at the bottom of the first page of your tax return, Form 1040. There are additional limitations on deductions based on your income so it is important to discuss these deductions with your tax advisors. Having adequate records of your deductible expenses is critical. The burden is always on the taxpayer to prove the deductibility of an expenditure for medical purposes.

## TRADITIONALLY DEDUCTIBLE MEDICAL EXPENSES

The Internal Revenue Code defines “medical care” as those amounts incurred or paid in a taxable year by a taxpayer or a dependent of a taxpayer for diagnosis, treatment, prevention and cure of disease or to otherwise beneficially affect any structure of function of the body. Such

expenses include but are not limited to qualifying transportation costs, long term care services, medical insurance and medical care insurance. Qualifying expenses are further defined as unreimbursed payments for (i) Hospital services; (ii) Nursing Services; (iii) Medical, Dental, Surgical and Laboratory services; (iv) Prescriptions; and (v) other qualifying expenses. But be careful, some expenses such as vitamins, health clubs and other expenses are not deductible. Further information can be found in Publication 502 available on the [www.IRS.gov](http://www.IRS.gov) website.

## DEDUCTING MEDICAL EXPENSES OF A DEPENDENT

You can deduct the unreimbursed medical expenses of a qualifying dependent as well as your own on Schedule A of your form 1040. Thus, if it is your spouse that is in need of the medical benefits of an ALF and you do not need such services, some or all of the amounts paid to the extent they are not reimbursed can still be taken as a deduction for a medical expense on your return if you file jointly.

## DEDUCTIBILITY OF LUMP SUM UPFRONT PAYMENTS

Lump sum upfront payments often called “founder’s” fees or “life care” fees may be deductible in the tax year they are incurred to the extent the expenditure is properly allocable to medical care, i.e. the ALF’s promise to provide lifetime care, including medical care. The fraction of the fees that are deductible are based on the facility’s experience with medical costs not the individual’s actual costs. Similar rules apply to monthly payments under life care contracts. You should consult with a tax advisor prior to entering into a lump sum or monthly contract to determine which costs, if any, are deductible and the effects on the deductibility of amounts paid if the contract is cancelled or reimbursed in whole or in part by insurance.

## DEDUCTING CHRONIC CARE

If an ALF is providing long term care services to an individual who is chronically ill, it is possible that 100% of the amounts paid to the ALF may be deductible. In such circumstances, meals, lodging and other costs may be considered deductible as medical expenses. This result is similar to payments made to a full time nursing facility providing food and lodging which also are deductible in most cases to the extent they are not reimbursed by insurance. Again, consulting an adviser is recommended if you intend to deduct all or part of the payments.

## CONCLUSION

If you are looking into various levels of long term care, it is in your interest to consider the deductibility of qualifying medical expenses which are not reimbursed by insurance. Further, prior to entering into any contract for assisted living or long term care it is important to have the contract reviewed by your legal and tax advisors to ensure you understand the agreement and its effects on your finances.



**SALVATORI, WOOD, BUCKEL,  
CARMICHAEL & LOTTES**

*Attorneys at Law*

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### Kevin Carmichael

Kevin Carmichael practices and teaches in the areas of closely held business and tax law, business succession planning, not for profit law, federal and state taxation, tax controversy, including OVDI, inbound and outbound tax planning for US and foreign persons, mergers and acquisitions, exempt organization formation, operation and dissolution, corporate governance and US and international estate planning. He is fluent in Spanish.



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