An alimony trust is a useful settlement vehicle for divorcing couples with considerable marital assets. Use of a trust minimizes contact and friction between the parties; assures the receiver of timely support payments, regardless of the payor’s financial circumstances or willingness to pay; and provides the payor with a means of effectively protecting the assets used to fund the settlement. This is especially important for both parties when the trust is funded by property owned separately by one spouse or funded by business assets, the future of which require one spouse to retain control.

Before the Deficit Reduction Act of 1984 (DRTRA), the tax treatment of these trusts was unclear and uncertain. The importance of trusts as sound family estate planning vehicles in divorce situations was recognized during consideration of the domestic relations tax proposals and this subject was addressed in the Tax Reform Act, but only obliquely.

For settlements finalized after December 31, 1984, the income beneficiary of an alimony trust will be taxed as a trust beneficiary under the normal rules for taxing the income of trusts and their beneficiaries contained in subchapter J of the Internal Revenue Code of 1954. Under these rules a trust is a “conduit” because the income received by the trust will, generally, be taxed to the beneficiary to whom it is paid.

Even short-term reversionary trusts normally subject to the grantor trust rules may be treated similarly. These trusts are important planning tools because the new alimony rules restrict opportunities for income shifting through direct payments. Under certain circumstances, income shifting will be possible through the indirect payment of support or for marital property rights when this cannot be accomplished with comparable direct payments. To understand how the new rules work, it is helpful to understand the alimony trust tax problems that have existed and the amended statutory provisions that now apply to transfers in trust.

Before enactment of the new rules, payments “attributable to property transferred in trust” were alimony includible in a wife’s income if they met the conditions set out in the statute: the payments were periodic, and the property had been transferred to the trust either to discharge the husband’s obligation to support his wife or “under” a written separation agreement “because of” his support obligation. If the alimony rules applied, the source of the payments was irrelevant; the full amount was taxable as alimony. This meant that the wife might be taxed on more income than the property produced, or on payments made from tax-exempt income. (Except perhaps, in the Sixth Circuit, see Ellis v. United States, 416 F.2d 894 (6th Cir. 1969).)

Because the amount of the payments was excluded from the husband’s income (under former Section 71(d)), he received no tax benefit attributable to alimony income taxed to the wife. Nor was there any benefit to the trust for payments from principal because the trust’s deduction is limited to the taxable portion of its distributable net income.

An alimony trust is specifically created to fund a husband’s support obligation, but any trust can serve this purpose if property is transferred to the trust to satisfy this obligation. If the trust was created and funded before and not “in contemplation of” divorce, however, the wife would be taxed as a beneficiary. Section 682(a) provides that, when the parties are divorced or separated, the income from the trust to which a wife is entitled is included in her income and excluded from her husband’s income.

Under the regulations, the inclusion/exclusion rule for previously funded trusts applies even when the divorce decree (or separation agreement) refers to the payments from the trust as “adequately providing” for the wife. Treas. Reg. Section 1.682(a)-(1)(a)(4) Example 1. Because she is “considered as the beneficiary” of the trust in determining both her taxable income and the taxable income of the trust, the trust may claim a distributions deduction for the payments to her. This system, which contrasted sharply
Payments from property transferred in trust are no longer with the requirement that indirect alimony be fully included in the wife’s income, has also been chosen as the method for taxing alimony trusts under the new law.

In addition to the uncertainty created by the indirect alimony rule, transfers of appreciated property to a trust were also taxable when made to discharge a husband’s support obligation. *United States v. Davis*, 370 U.S. 651 (1962). The transferee was required to pay tax on the gain measured by the difference between the value of the wife’s income interest and his basis. (For a discussion of basis, see *Basis in Alimony Transactions* on the following page.)

She, in turn, obtained a cost basis (i.e., its value at the time of the transfer) for her interest in the trust and, as the purchaser of a wasting asset, was, at least arguably, entitled to amortize this basis against her income interest. The amount treated as her cost basis was again included in the basis of the assets to the trust, thus double-counting the basis. *See Preston Lea Spruance*, 60 T.C. 141 (1973), aff’d mem., 505 F.2d 731 (3d Cir. 1973).

Nonetheless, because the transfer to the trust was a taxable event for the husband, the use of a trust might be too costly when appreciated property, such as business assets, were involved. On the other hand, double-counting basis meant that an alimony trust funded with cash could produce unjustifiable income tax benefits.

Difficult questions remained. For example, it was sometimes unclear whether the alimony rule applied, particularly for trusts created at a time different from divorce. The result may have depended more on the form of the agreement than on the economic substance of the deal between the parties. It also was unclear how payments to the wife were to be taxed when they were not includible in her income because the conditions of Section 71 were not met. Even if the payments were taxable as alimony, the transfer to the trust might still be taxed as a *Davis* transaction, a result inconsistent with their treatment as alimony paid by the trust. Careful drafting might have avoided *Davis*, but the tax treatment of the payments remains uncertain.

**THE NEW RULES**

The 1984 Act seeks to clarify the status of alimony trusts. Under new Section 1041(a), no gain or loss shall be recognized on the transfer of appreciated property “in trust for the benefit of” a spouse or former spouse when incident to divorce, and the “transferee” (the trust) takes a carryover basis. “The property shall be treated as acquired... by gift,” Section 1041(b)(1), meaning that the income beneficiary of an alimony trust, whose marital rights have, presumably, been satisfied by the transfer, cannot be treated as a purchaser. Thus, the income beneficiary (the wife) cannot acquire an amortizable basis, Section 273, and the payments of income from the trust cannot be offset by basis. *Irwin v. Gavit*, 268 U.S. 161 (1925). Moreover, no basis will be allocated to the wife’s income interest should she sell it. Section 1001(e)(1).

In explaining the purpose of these changes, which are derived from the House bill, the Committee Report stated: When a beneficial interest in a trust is transferred or created, incident to divorce or separation, the transferee [wife] will be entitled to... the usual treatment as the beneficiary of a trust (by reason of Section 682), notwithstanding that the... payments by the trust qualify as alimony or otherwise discharge a support obligation. (H.R. REP. NO. 98-432 (part 2), 98th Cong., 2d Sess. 1492 (1984).)

This statement goes further than the actual statutory amendment in that the amendment applies only to the transfer of property to the trust. Payments attributable to property transferred in trust are no longer explicitly included within the scope of the alimony rules, and the exclusion from the husband’s income for indirect alimony payments has been omitted. Trust payments are now generally thought to be governed solely by Section 682, and thus the conduit rules of subchapter J.

However, a difficulty with the intended result arises from a statutory hiatus. Under amended Section 71, alimony payments continue to be defined as payments received by the wife under a “divorce or separation instrument,” when they meet the other conditions for inclusion. A “divorce or separation instrument” includes a written separation agreement or a written instrument that is part of the divorce decree. Many divorce settlements, however, will require trust payments under such an instrument and, indeed, the trust itself may well be a written instrument incident to the divorce decree. As before, the source of the payment is irrelevant in determining taxability to the wife payee.

Section 682(a) makes no reference to Section 71, and there is no longer any indication that Section 71 should have priority when both provisions apply to the same payments, which was the case before the 1984 Act. Nonetheless, because of the new law’s increased flexibility toward the use of trusts—and in cases where payments from the estate of a deceased payor are contemplated—the parties should use the tax designation rule. New Section 71(b)(1)(B) permits the designation “payments,” to which Section 71 might otherwise apply, as not taxable to the payee and not deductible by the payor under Section 215. This solves the priority issue. Once Section 71 does not apply, by definition, all other provisions of Subtitle A (all income taxes) are expressly overridden by Section 682.

To illustrate the new regime, it is useful to consider a sit-
A trust may be advisable. Suppose, for example, husband John owns stock in a corporation that has long operated a family business. This stock has a value of $1,000K and a basis to him of $100K. The stock will be the source of payments to wife Mary—for her support and in discharge of her marital property rights—and the parties agree that the payments will be taxable to her.

The corporation has been paying dividends at the rate of $50K. Mary does not feel comfortable leaving the stock in John’s possession, and he agrees to transfer it to a trust, in which she has the income interest. While John’s interest in retaining control over the property is protected, Mary requires his guarantee that dividends will be paid on the stock at no less than the current rate, along with other protections should he fail to make up a shortfall in dividend payments.

Typically, the remainder interest in an alimony trust is given to their children. Mary’s income interest would terminate upon her death or remarriage, although a successor income interest might be created to pay educational expenses or, less frequently, support, if, for example, Mary were to assume support of one of her parents. Payments from the trust are described in the parties’ agreement, and the tax designation is made. The transfer is not taxed to John, Mary cannot derive a cost basis for her interest, and the basis of the assets in the hands of the trust is the same as John’s basis immediately before the transfer.

The income paid to Mary, or that which she is entitled to receive, will be included in her income as a beneficiary, under Section 682(a) if:

1. The parties are divorced or separated under the written separation agreement;
2. Mary is entitled to receive the income under the terms of the trust; and
3. The income would otherwise have been taxable to John.

## Basis in Marital Transactions

In general, the basis of property reflects its history in the hands of the owner. A purchase of property for cash will result in a “cost” basis for that property and will measure gain upon subsequent sale. For example, suppose John paid $600 for stock of corporation X. Several years later he sold that stock for $1000. He has realized a gain of $400 ($1000 - $600).

Property can also be acquired for noncash consideration. In that case the basis of the property will be the value of the property received by the purchaser, which is also the measure of any gain realized by the purchaser on the transfer of the noncash consideration (i.e., his “cost,” for tax purposes). In a divorce situation, husband John may have transferred property to wife Mary in exchange for her release of marital rights. The amount realized by John on this exchange is the value of these marital rights, but they are almost impossible to value apart from the value placed on them by the parties themselves. The Supreme Court in *Davis* assumed that John had received an amount equal to the value of the property he had transferred to Mary (that is, the exchange was equal). His gain was measured by the value of the transferred property, as was her basis. Assume that before July 18, 1984, John transferred the X Corporation’s stock in exchange for Mary’s release of marital rights. As before, John’s gain was $400, and Mary’s basis for the stock (her cost) was $1000.

When John creates a trust under which Mary receives an income interest in exchange for her release of marital rights, John has transferred a portion of the property in what was a taxable exchange under prior law. In this case, a part of both the value and the basis of the entire property must be allocated to the interest transferred to Mary. As in a transfer of the entire property, his gain would be equal to the difference between this value and the allocated basis, and Mary would have a cost basis for her income interest equal to the allocated value. Suppose John transferred the corporate stock to a trust under which Mary (at 30 years old) was given a lifetime right to receive the dividends from the stock. In exchange, she released her marital rights. Under the appropriate tables using actuarial principles, her right to income would have been valued at 85 percent of the value of the entire property. Thus, her marital rights would have been treated as having paid $85x, and, under *Davis*, she would have been treated as having paid $85x for her interest in the trust, giving her a cost basis of $85x which she could then have amortized as she received dividends. John, in turn, would have been treated as if he had sold the right to receive the dividends for $85x. His basis in the entire property would have been allocated to the interest sold in the same manner, and he would then have realized a gain of $34x ($85x - $51x).


These rules have been changed by DRTRA, which enacted new Section 1041. Under this provision, any gain realized on the transfers described above would not be recognized, and the transferee’s basis would be the same as the transferor’s basis immediately before the transfer.
Shifting the tax burden to the wife will require a settlement

This follows from the assumption that, under the terms of the settlement, the income is used to discharge John’s obligation and would thus be taxable to him as the grantor under Section 677(a), or, if the parties were not divorced, would be taxable to him under Section 677(a)(1), because they are distributable to Mary. When these three conditions are satisfied, the amount of the income, which Mary is entitled to receive, is included in her income, “and such amount shall not, despite any other provision of this subtitle [i.e., all income tax provisions], be includible in the gross income of John.” Further, Mary is “considered” as the beneficiary under the usual provisions of the trust income. This means that the amount of income taxed to Mary cannot exceed the taxable income of the trust, which was included in its “distributable net income,” and further, that the character of the income in Mary’s hands is the same as the character of the income received by the trust. Sections 652, 662. The trust may claim a deduction for distributions of taxable income to Mary. Sections 651, 661. And none of the trust income, which has been taxed to Mary, will be taxed again to John.

ANNUITY TRUSTS

Instead of giving Mary the income from the trust, the settlement and the trust instrument may provide for fixed monthly payments from the income, and if the income is not sufficient, from the principal. The amount included in her income cannot exceed taxable income of the trust. Suppose, for example, John agreed to use property transferred in trust to pay Mary $5,000 per month. Suppose further that the annual trust income is $50,000. Mary will include $50,000 in her income even though she received $60,000 in actual payments. The trust may deduct $50,000, and thus will not be taxed on its dividend income. There will not be any tax effect on John.

When setting up an annuity trust, or a trust in which re-investment of the assets of the trust is contemplated, care should be taken to avoid sales at a gain within the first two years following the transfer of appreciated property to the trust. If such a sale takes place, the trust will be subject to an additional tax equal to the tax John would have paid had he sold the property himself. Section 644. This provision limits the affected amount of gain to the unrealized gain at the time of the transfer, but in our hypothetical case, the tax can be substantial. When distributions from principal are contemplated, therefore, additional contributions to the trust should be planned to fund these distributions, at least for the first two years.

Recall the three conditions that must be satisfied for Section 682(a) to apply (see p. 17). When these conditions are met, the amount taxed to Mary “shall not, despite any other provision of this subtitle” be taxed to John. Section 682(a) therefore overrides the grantor trust provisions, and the present regulations interpreting this language make this result crystal clear.

If none of the grantor trust rules apply, no matter what provisions the trust contains—as long as Mary is “entitled” to receive the income—the flexibility provided by the trust device increases dramatically. Remember as well that income taxed to Mary under Section 682 is not subject to any of the restrictions imposed on direct payments under Section 71, and will not affect application of the six-year stretch-out and recapture rules to other payments.

Now, assume that John desires the return of the stock once his obligation has been satisfied, and assume further that Mary is to receive payments for five years. This arrangement violates Section 673(a) (because the reversion will occur in less than ten years), and also fails the conditions of Section 71(f). Nonetheless, the income of the trust will be taxable to Mary. Moreover, termination of the trust payments in the fifth year will not cause recapture of direct payments in the sixth year when the amount taxable to Mary is less.

Suppose further that the corporation has substantial accumulated earnings and profits, which are reflected in liquid assets. John wants to continue the corporation, which he prefers not to have recapitalized, (a plan that might otherwise have permitted distribution from the corporation to Mary for stock issued to her in the recapitalization). Mary is willing to accept payment subject to ordinary income tax, with appropriate upward adjustment of the settlement to reflect the increased tax burden. The stock is then transferred to a trust that will terminate and revert to John after three years. John guarantees payment of dividends at 10 percent of the value of the stock originally transferred to the trust.

Each trust year the corporation declares and pays dividends of $100,000. These are included in the trust’s distributable net income. As the beneficiary, Mary is taxed on her trust income; John is not. The trust may be only one part of the overall settlement, which may include longer term direct payments, perhaps increasing in amount after the trust has terminated. The relatively high payments from the trust might be used for short-term expenses including, for example, attorney’s fees, without causing recapture under the six-year rule of Section 71(f).

Our hypothetical may be unusual, but the technique illustrates, how to strip-off virtually any taxable gain for payment to the wife while the husband retains control of, and ownership of, the underlying assets. Substantial accumulated earnings and profits have been paid out in a short-term marital settlement, perhaps solving an incipient accumulated earnings problem for the corporation.

In this example, John may want to retain even more control over the assets transferred to the trust. If the trust is revocable, he can recover complete control over them whenever necessary, for example, when considering sale of stock. Mary would need further protection to prevent John from depriving her of some benefit she may have
justment

negotiated in the settlement. This might be provided by requiring John to make costly alternative payments in the event of revocation.

Although a revocable trust might not appear to be an acceptable technique for shifting income to the wife, the present regulations sanction such a trust. Treas. Reg. Section 1.682(a)-(1)(a)(4) Example (2). The trust described in the example was “revocable at any time,” and if revoked, resulted in the husband’s obligation to make an alternative payment.

**CAPITAL GAINS**

Capital gains realized by the trust are not usually included in the distributable net income of the trust, and thus will not be taxable to the wife. If the capital gain is realized within two years after the property was transferred to the trust, it is expressly excluded from distributable net income and is subject to the special additional tax. Capital gains realized at a later time may be included in distributable net income if the trust instrument defines trust income to include capital gains. Treas. Reg. Section 1.643(a)-3(a)(1). This suggests that spouses can divide appreciated assets between them and tax the wife for the gain that results from sale of the property, while the husband retains the amount equal to basis. Shifting the burden of the tax, even a capital gains tax, to the wife will require adjustment in the amount of the settlement, but may well be worth the effort.

Assume for example, that John is willing to part with the stock. Mary does not want to bother with the sale of the stock, and thus negotiates for cash. John is agreeable provided that Mary pays the tax. To accomplish this, a trust is created and the property is transferred to the trust. The trust instrument defines trust income to include all capital gains. Mary, as the income beneficiary, acquires the right to receive the gain when realized. The term of the trust is four years, and the property may not be sold for two years following transfer, thus avoiding the additional tax imposed by Section 644. John further guarantees that each year the trust will produce income equal to a negotiated amount, (determined by the parties) which approximates the income and capital gain that will actually be realized by the trust. After two years enough assets are sold to generate the amount of cash to be paid to Mary. All gains are included in distributable income and are paid to Mary from the trust. The income retains the character it had in the hands of the trust. She pays tax on capital gain, and this amount is excluded from John’s income.

This technique requires a two-year waiting period, which may preclude completion of the contemplated transaction. Nonetheless, a sale, before the transfer to the trust, for deferred payments reportable on the installment method, followed by the transfer of the installment obligations to the trust, may produce the same result. See Section 453B(g), subjecting the transfer of installment obligations (Continued on page 40)

**Effective Dates**

The domestic relations tax provisions of DRTRA are not all effective at the same time. This creates a problem, which has implications for the use of alimony trusts in the settlement of pending divorces. The tax treatment of property transferred to an alimony trust is governed by new Section 1041, which is effective for transfers occurring after July 18, under divorce instruments entered into after July 18. The amendments to Section 71, on the other hand, are effective for divorce or separation instruments entered into after December 31, 1984, unless the instrument is modified after that date in a modification which expressly provides that the amendments are to apply to the modification.

If an alimony trust is set up under a settlement entered into before the end of the year, the transfer of property to the trust will be subject to the nonrecognition of gain- carryover of basis rule of Section 1041, yet payments from the same trust will be tested under present Section 71. As a result, these payments may be taxable in full to the wife as alimony, and she will not be treated as a beneficiary under the provisions of subchapter J of the Internal Revenue Code. The result would not necessarily be detrimental from a tax perspective when appreciated property is used to fund the trust and the payments to the wife do not exceed the taxable income of the trust. Because the transfer to the trust would not be taxable, she would be denied the opportunity to claim a cost basis and amortization deductions. Moreover, the tax result could more easily be achieved by waiting until January. In any case in which trust payments might exceed the taxable income of the trust (now or in the future), she might be faced with the prospect of paying tax on more income than was produced by the trust property. When the use of a trust is a significant part of the settlement, therefore, deferral of the effective date of the settlement is desirable unless outweighed by other considerations (e.g., child support designations).

The effective date provisions also may be problematic for spouses who pay alimony under pre-1985 divorce instruments for which they now, and in the future, claim alimony deductions under Section 215. All alimony payors will be required to provide the identification number of the payee, regardless of the effective date of the instrument under which the payments are made. This means that current alimony payors will be required, at least, to ask their payee spouses for the spouses’ taxpayer identification numbers. If the number is not furnished, presumably one of the two will face a $50 penalty; he because his failure to provide her number was not due to reasonable cause, or she because she unreasonably failed to supply him with the number on his request.
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Under the basic alimony trust provisions, in the previously discussed example, Mary is entitled to the income from the trust. As each child reaches emancipation, a percentage of the income payable to her becomes payable instead to John. Under new Section 71(c), direct payments subject to such a contingency would be child support, under Section 682(a), they are not child support but are instead included in Mary’s income. She is taxed on the amounts paid to her as a beneficiary, John is not. This trust is part of a settlement, which includes direct payments to the wife, regardless of the status of the couple’s children (e.g., the child reaches emancipation, leaves the custody of the parent, or dies).

If payments from a trust are designated as child support payments, they will be included in the husband-grantor’s income under Section 677. When the payments must be made under the trust instrument, he is taxed as the owner of the trust under Section 677(a). When child support payments from the trust are made at the discretion of a third party, or at the discretion of the husband-grantor acting as trustee, he is not taxed on trust income unless the payments are actually made. Section 677(b). When these payments are made, he is taxed as the owner of the trust to the extent the payments are made from income, and he is taxed as a beneficiary of the trust when payments are made from other sources. Thus, he is subject to the accumulation trust provisions. Section 666.

The real issue is whether a discretionary payment was made for the support of a beneficiary whom the grantor is legally obligated to support. This question frequently arises when payments are made to defray a child’s college expenses. When a trust is created for this purpose as part of a divorce settlement, the underlying agreement should not oblige the husband to make these payments directly because this would assure inclusion of trust income in his personal income. Although, as yet, most jurisdictions do not require parents to pay for the college education of a dependent child over age 18, there are signs that the law is changing. In Frederick C. Braun, Jr., T.C. Memo., 1984-286, the tax court interpreted the statutory requirement that the grantor be legally obligated to make the payments in a nondivorce setting. The court applied a dictum of the state supreme court which, in the tax court’s view, indicated the willingness of the state courts to impose this obligation on parents financially able to do so. This existence of the trust created by the parent for the precise purpose may have influenced the court’s view of the parent’s financial ability. After Braun, one may not be quite so confident that trusts created to pay for the higher education of dependent children will be effective in shifting the tax burden to the trust or the children, especially if local law might change before the children enter college. Alternatively, parents might consider a trust provision under which income is distributable to the child at age 18.
When substantial property is involved, transfer tax considerations must also influence planning. In the typical alimony trust, the issue is whether transfer tax will be imposed on the value of the remainder interest given to children. When the trust is created and funded during the marriage, the wife’s interest can be “qualified terminable interest property” (QTIP). For this to work, she must be entitled to income from the trust for life, thus precluding termination upon remarriage. In a QTIP trust, the value of the property transferred to the trust will qualify as a marital deduction to the husband, but it must be included in taxable estate at its value upon her death, or at the time she relinquishes her income interest. When she does not otherwise possess enough property to incur transfer tax, this may not be a burden, and in any event transfer taxes can be paid from the trust.

Generally, when the transfer is not to a QTIP trust, the value of the interest transferred to the wife will not be a taxable gift from the husband because it is supported by consideration (her support rights), or consideration is deemed to exist under the divorce rule. Her income interest will be valued actuarially using the 10 percent discount tables under Section 2031. These tables allocate a high proportion of the value of the transferred property to her interest. For example, if the wife is 50 years old, 85 percent of the value of the property transferred to the trust will be allocated to her interest. Similar allocations result when she is provided with an annuity, thus minimizing the impact of the transfer tax.

Life insurance is always an important consideration in divorce settlements, even more so under the new rules. A trust can be a useful vehicle for assuring both parties that the insurance they have agreed upon has been provided and will be available if needed. The transfer for value rule, which would otherwise have eliminated the exclusion for life insurance proceeds under a policy transferred in a marital settlement, will no longer be a factor, permitting the funding of life insurance trust with existing policies.

Care must be taken in setting the dispositive provisions of the trust if the proceeds are not paid directly to the individual beneficiaries, but are paid instead to the trust.

When there are no children and the transferee wishes to make charitable bequests, another option is to use a charitable remainder trust. A current tax deduction may be available for the value of the charitable remainder, but the statutory rules governing it require careful planning.

Q.: If the former husband is paying $1,000 a month to the former wife as Lester payments for the support of the former wife and minor children under a pre-1985 decree, and either party brings a motion under January 1, 1985, to modify the amount of money paid because of a change in circumstances, does the new law apply?
A.: Not unless the modification expressly provides that the amendments to the Code shall apply. Section 422(e)(2) of the Deficit Reduction Act.

Q.: A divorce was granted several years ago before the enactment of the new law. The payor was paying more than $100 a month for each child as child support, and the payee could not show that she paid more than half of the children’s support. Therefore, the payor took the children as dependents. There was no provision in writing that the payor be allowed to take the exemption. Does this new law affect this old case?
A.: Yes. Section 152(a)(4) has been amended to eliminate this exception. The act, however, does contain a grandfather clause for cases in which there was in writing a provision giving the noncustodial parent the exemption if the noncustodial parent provides at least $600 a year for each child as support. If the noncustodial parent cannot meet this grandfather clause, then the new law applies.

Q.: Do the parties need to fight about the claiming of the dependency exemption to protect their right to deduct medical expenses?
A.: No. Section 423(b) of the act amended Section 213 to provide that the child is treated as a dependent of both parents for medical expense deduction.