

a disease emphasizing assistance to nature and sometimes including the use of natural medical substances such as herbs, vitamins, and salts, and certain physical means such as manipulation and electrical treatment. The Division denied the medical expenses stating: “Per the IRS guidelines we follow, naturopathic treatments are not allowed.” Petitioner filed an appeal asserting the naturopathic oncology treatments are valid medical expenses.

LAWS & ANALYSIS

Idaho Code § 63-701(5)(g) refers to Internal Revenue Code § 213 for the definition of medical expenses for purposes of the property tax reduction benefit. Under Internal Revenue Code § 213, deductible medical expenses are amount paid for the diagnosis, mitigation, treatment, prevention of disease or for the purpose of affecting the body's structure or function and the costs of nursing services. Expenses for services that are merely beneficial to the individual's general health are not deductible. There must be a proximate relationship between the medical deficiency of the individual and the service that person received, for the cost of the service to qualify as a deductible medical expense.

In general, an individual can't include in medical expenses the cost of nutritional supplements, vitamin, herbal supplements, “natural medicines”, etc., because these items are taken to maintain health and aren't for medical care. However, if recommended by a medical practitioner as treatment for a specific medical condition diagnosed by a physician, they may be deductible depending on the facts and circumstances.

The determination of what is medical care depends not on the experience, qualifications, and title of the person rendering the services but on the nature of the services rendered (*Brown, Donald H.*, (1974) 62 TC 551; *Tautolo, David F.*, (1975) TC Memo 1975-277). Deductions for medical care expenses aren't strictly limited to traditional medical procedures. Rather, deduction

is permitted for “nontraditional” medical care where the payments are made, as described in Code § 213(d)(1)(A), for the purpose of affecting any structure or function of the body. A deduction isn't precluded by the fact that the medical care wasn't prescribed by a medical doctor and/or wasn't covered by an insurance company.

In *Paul F. Dickie v. Commissioner*, TC Memo 1999-138, a taxpayer suffering from a recurrence of breast cancer was permitted to deduct the cost of consultations with, and dietary supplements prescribed by, a “naturopathic doctor” who wasn't a medical doctor and whose treatments weren't covered by taxpayer's insurance. The facts in the current case has striking similarities to the facts in *Paul F. Dickie v. Commissioner*.

As the court stated in *Fischer v. Commission (1968)*, 50 TC 164: “The cases, the ruling, and the regulation make clear that whether a service for which an expenditure is made constitutes medical care will depend upon its therapeutic nature to the individual, and not upon the title of the person rendering the service, or whether the expense is “medical” to all persons, or the general nature of the institution in which the service is rendered.” This broad view of medical care allows medical expense deductions for “nontraditional” medical care. See *Crain v. Commissioner*, T.C. Memo. 1986-138; *Tso v. Commissioner*, T.C. Memo. 1980-399.

Generally, the deductibility of alternative therapies or miscellaneous services or activities that aren't performed by or under the direct supervision of a medical professional is a matter of establishing that they aren't personal expenses and/or general health expenditures that there's a direct or proximate relation between the expenses and the diagnosis, cure, mitigation, treatment, or prevention of disease, and that that proximate relation justified a reasonable belief that the treatment, etc., would be effective. *Jacobs, Joel H.*, (1974) 62 TC 813; *Tautolo, David F.*, (1975) TC Memo 1975-277; *Havey, Edward*, (1949) 12 TC 409.

CONCLUSION

In reaching its decision, the Tax Commission notes that, in general, naturopathic medicine, nutritional supplements, vitamins, herbal supplements, “natural medicines,” etc., aren’t deductible medical care and are generally classified as a nondeductible general health expenditures; and that the burden is on the taxpayer to prove otherwise.

In the current case, Petitioner has satisfied his burden of proof. The expenses don’t appear to be personal expenses and/or general health expenditures. There is a direct or proximate relation between the expenses and the Petitioner’s late wife’s ovarian cancer and a reasonable belief that the treatment, etc., would be effective. Therefore, Petitioner is entitled to deduct naturopathic oncology treatments for his late wife’s ovarian cancer for purposes of the property tax reduction benefit.

However, we are not persuaded that the entire amount at issue was paid in 2018. The documents Petitioner provided to support the expenses show that some of the medical expenses were paid in 2017. During the informal hearing, Petitioner conceded that the expenses had most likely been paid in 2017. Based on the information available, Petitioner’s substantiated 2018 deductible medical expenses are \$5,864.

Under Internal Revenue Code § 213, individuals can include in medical expenses amounts paid for transportation primarily for, and essential to, medical care. In this case, Petitioner did not keep adequate records to substantiate transportation expenses. Using our best judgement, we allow Petitioner to include \$200 for medical expenses for transportation under the Cohan Rule for tax year 2018. Total medical expenses were adjusted from \$14,722 to \$6,064.

THEREFORE, the Notice of Deficiency Determination dated April 30, 2019, is hereby MODIFIED, in accordance with the provisions of this decision, and is AFFIRMED and MADE FINAL.

IT IS ORDERED that the Petitioner pay the following tax, penalty and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2018	\$160	\$2	\$162

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of Petitioner's right to appeal this decision is enclosed.

DATED this _____ day of _____ 2020.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2020,
a copy of the within and foregoing DECISION was served by sending the same by United States
mail, postage prepaid, in an envelope addressed to:



Receipt No.
