

## INCOME TAX DEDUCTION FOR CHILD-CARE EXPENSES IN CASE OF WOMAN DESERTED BY HUSBAND

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MARCH 14, 1963.—Ordered to be printed

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Mr. BYRD, of Virginia, from the Committee on Finance, submitted the following

### R E P O R T

[To accompany H.R. 2085]

The Committee on Finance, to whom was referred the bill (H.R. 2085) to amend the Internal Revenue Code of 1954 to provide that the deduction for child-care expenses shall be available to a wife who has been deserted by and cannot locate her husband on the same basis as a single woman, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

#### I. SUMMARY OF BILL

H.R. 2085, as amended, would amend the Internal Revenue Code so as to make the \$600 child-care deduction available, on the same basis as for widows, to women who have been deserted by their husbands. However, for the woman to have this status she must have been deserted by her husband, not know his whereabouts at any time during the taxable year, and must have applied to a court to compel him to pay support. Thus, such women would not be required to file a joint return with their husband in order to be eligible for the child-care deduction and the deduction would not be decreased \$1 for every dollar of earnings above \$4,500.

#### II. GENERAL STATEMENT

Under present law (sec. 214) a deduction of up to \$600 a year can be taken for expenses incurred by a woman or a widower for the care of a dependent son or daughter (or stepson or stepdaughter) under age 12 (and also for dependents who are physically or mentally incapable of caring for themselves) if the care is to enable the individual involved to be gainfully employed. However, for working wives who

are married to obtain this deduction they must file a joint income tax return with their husbands. In this case the deduction allowable is reduced \$1 for each dollar of income of the husband and wife in excess of \$4,500. For purposes of this provision a woman is not considered as married if she is legally separated from her husband under a decree of divorce or of separate maintenance.

This bill would amend present law to treat in the same manner as a widow, a woman who has been deserted by her husband. For this treatment to be available, however, she must not know of the husband's whereabouts nor have known of his whereabouts at any time during the taxable year. Also, she must have applied to a court of competent jurisdiction to compel him to pay support or otherwise comply with the law or a judicial order (as determined under regulations of the Secretary of the Treasury or his delegate).

Your committee has reported this bill favorably because it believes that where women clearly have been deserted by their husbands, they should be eligible for any child-care-expenditure deduction in the same manner as a widow. Under present law they cannot obtain this deduction because of the requirement that they file a joint return with the husbands who deserted them. Moreover, even apart from this restriction, the deduction under present law would be of limited value, because it decreases if they earn more than \$4,500 a year and disappears entirely if their earnings exceed \$5,100 a year. No comparable restriction is imposed in the case of widows. Your committee has favorably reported this bill because it believes these women should be treated, for purposes of this deduction, in the same manner as widows.

This provision is to apply to taxable years ending after the date of enactment of this bill.

### DEPARTMENTAL REPORT

The favorable report of the Treasury Department follows:

TREASURY DEPARTMENT,  
ASSISTANT SECRETARY,  
*Washington, March 12, 1963.*

Hon. HARRY F. BYRD,  
*Chairman, Committee on Finance,*  
*U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of this Department on H.R. 2085, a bill to amend the Internal Revenue Code of 1954 to provide that the deduction for child care expenses shall be available to a wife who has been deserted by and cannot locate her husband on the same basis as a single woman.

This bill would amend section 214 of the Internal Revenue Code to allow a deduction for the expenses of child care to a wife who has been deserted by her husband whose whereabouts is unknown and has not been known at any time during the taxable year provided she has applied to a court of competent jurisdiction to compel the husband to pay support or otherwise comply with the law or a judicial order.

Under present section 214, a married woman is entitled to a deduction of up to \$600 for the care of children under 12 and disabled dependents of any age, only if she files a joint income tax return with her husband. The deduction is reduced dollar-for-dollar to the extent the couple's combined adjusted gross income exceeds \$4,500. Thus, a

married woman who has been deserted by her husband and cannot locate him is deprived of the child care deduction because she is unable to file a joint return. On the other hand, a single woman or a woman who has been divorced or is legally separated from her husband may claim such a deduction on her separate return.

A wife who has been deserted by her husband and left without financial support for her children is frequently in a more difficult financial situation than a woman who is divorced or legally separated from her husband because in the latter case, a court will generally require and enforce some form of support arrangement for dependent children before granting the decree of divorce or of legal separation. Since the child-care deduction was originally authorized to alleviate the burdens on families where the mother had to work in order to maintain minimum living standards and had to pay for child care while outside the home, it seems inequitable to deprive deserted wives of this form of assistance when they are in similar circumstances.

Accordingly, the Treasury is sympathetic to the policy underlying H.R. 2085 and, in his statement before the House Ways and Means Committee on the current tax program, the Secretary recommended the adoption of the amendment proposed in H.R. 2085. Because the Secretary has also recommended other liberalizing changes in section 214 of the Code which H.R. 2085 would amend, and testimony has been received which might cause the House committee to suggest further changes, you may wish to give thought to whether it would not be more appropriate to consider the instant amendment in the light of the overall proposals with respect to section 214.

Except for this suggestion, the Department has no reservation concerning H.R. 2085 and favors its enactment.

The Bureau of the Budget has advised the Treasury Department that there is no objection from the standpoint of the administration's program to the presentation of this report.

Sincerely yours,

STANLEY S. SURREY,  
*Assistant Secretary.*

### CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman):

#### SEC. 214. EXPENSES FOR CARE OF CERTAIN DEPENDENTS

(a) **GENERAL RULE.**—There shall be allowed as a deduction expenses paid during the taxable year by a taxpayer who is a woman or a widower for the care of one or more dependents (as defined in subsection (c)(1)), but only if such care is for the purpose of enabling the taxpayer to be gainfully employed.

(b) **LIMITATIONS.**—

(1) **IN GENERAL.**—The deduction under subsection (a)—

(A) shall not exceed \$600 for any taxable year; and

(B) shall not apply to any amount paid to an individual with respect to whom the taxpayer is allowed for his taxable

year a deduction under section 151 (relating to deductions for personal exemptions).

(2) **WORKING WIVES.**—In the case of a woman who is married, the deduction under subsection (a)—

(A) shall not be allowed unless she files a joint return with her husband for the taxable year, and

(B) shall be reduced by the amount (if any) by which the adjusted gross income of the taxpayer and her spouse exceeds \$4,500.

This paragraph shall not apply if the taxpayer's husband is incapable of self-support because mentally or physically defective.

(c) **DEFINITIONS.**—For purposes of this section—

(1) **DEPENDENT.**—The term “dependent” means a person with respect to whom the taxpayer is entitled to an exemption under section 151(e)(1)—

(A) who has not attained the age of 12 years and who (within the meaning of section 152) is a son, stepson, daughter, or stepdaughter of the taxpayer; or

(B) who is physically or mentally incapable of caring for himself.

(2) **WIDOWER.**—The term “widower” includes an unmarried individual who is legally separated from his spouse under a decree of divorce or of separate maintenance.

(3) **DETERMINATION OF STATUS.**—A woman shall not be considered as married if (A) she is legally separated from her spouse under a decree of divorce or of separate maintenance at the close of the taxable year, or (B) *she has been deserted by her husband, does not know his whereabouts (and has not known his whereabouts at any time during the taxable year), and has applied to a court of competent jurisdiction for appropriate process to compel him to pay support or otherwise to comply with the law or a judicial order, as determined under regulations of the Secretary or his delegate.*

