

## Revenue Notice # 98-18:

### Income Tax - Alimony Payments

The United States Supreme Court issued an opinion in the case of Lunding v. New York Tax Appeals Tribunal, No. 96-1462, on January 21, 1998. The Court held that a New York tax provision that effectively denied only nonresident taxpayers an income tax deduction for alimony paid was discriminatory and violated the Privileges and Immunities Clause of the U.S. Constitution. The New York provision limited or disallowed nonresidents' deduction of alimony payments, irrespective of whether those payments might relate to New York-source income, creating a situation where the nonresident taxpayer was required to pay more tax than an identically situated resident. The Court stated that, although precise equality in taxation between residents and nonresidents of a State is not required, the imposition of taxes on a nonresident must not be more onerous in practical effect than the tax imposed under similar circumstances upon residents

Based upon the decision in Lunding, the Department adopts a position that modifies its instructions for line 13 of Schedule M-1NR for alimony paid by nonresidents for Minnesota individual income taxes filed for 1995, 1996, and 1997.

To determine the Minnesota portion of alimony allowed for column B of line 13 of Schedule M-1NR follow the steps below:

- 1) From column B, add lines 11, 12, and 14 of Schedule M-1NR.
- 2) Subtract the result in step 1 from the amount on line 10 of the Schedule.
- 3) Add line 30a (alimony) to line 32 (federal adjusted gross income) of 1997 federal Form 1040 (lines 29 and 31 respectively for 1995 or 1996).
- 4) Divide step 2 by step 3.
- 5) Multiply line 30a of 1997 federal Form 1040 (line 29 of 1040 for either 1995 or 1996) by the percentage from step 4 above. List this amount on line 13, column B on Schedule M-1NR.

Effective Date: These instructions are effective for taxes filed for 1997 on Schedule

M-1NR, as well as amended M-1NR filings for 1995 and 1996. Original instructions for years prior to 1995 were consistent with the instructions announced in this revenue notice.

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