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What You and Your Family Need to Know



Tax, Legal, and Financial Considerations

*The Myositis Association Conference
September 15-18, 2011*

Handouts

- ☞ Sample Tax Return (4 Pages)
- ☞ Doctor Letter - Home Improvements
- ☞ Doctor Letter - Caregiver
- ☞ Simple Holographic (Unwitnessed) Will
- ☞ Simple Witnessed Will
- ☞ California Statutory Health Care Directive (Page 1 Only)
- ☞ California Sample HIPAA Waiver
- ☞ California Statutory POLST form (2 Pages)
- ☞ Life Expectancy Tables
- ☞ Resources

Medical Expenses in General

- ☞ Deductible on your 1040
- ☞ 7.5% Floor
- ☞ Commonly deductible medical expenses

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Commonly Deductible Medical Expenses

- ☞ Hospital services.
- ☞ Nursing services (including nurse's board when paid by the taxpayer).
- ☞ Medical, laboratory, surgical, dental and other diagnostic and healing services.
- ☞ X-rays.
- ☞ Medicine and drugs (limited to prescription medicine and insulin).
- ☞ Artificial limbs.
- ☞ Ambulance hire.
- ☞ Transportation to and from medical facility.

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What is "Medical" and What is Not? – Examples

- ☞ Alternative or holistic expenditures – yes
- ☞ Administered by non-physician - yes
- ☞ Physical therapy and personal trainer – yes
- ☞ Vitamins – no
- ☞ Attending this conference
 - Registration and transportation – yes
 - Meals and lodging - no

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Medical Expenses: How Does 7.5% Floor Work?

Form **1040** U.S. Individual Income Tax Return **2010**

Name, Address, and SSN: **JOHN SMITH**, 111TH STREET #1111, SAN FRANCISCO, CA 11111

Filing Status: Single

Exemptions: Yourself, if someone can claim you as a dependent, do not check box 6a

Income:

1. Total number of exemptions claimed	7
2. Wages, salaries, tips, etc. (Attach Form(s) W-2)	84
3. Taxable interest. Attach Schedule B if required.	0
4. Tax-exempt interest. Do not include on line 8a.	0
5. Ordinary dividends. Attach Schedule B if required.	0
6. Qualified dividends	0
7. Taxable interest, credits, or offsets of state and local income taxes	12
8. Alimony received	11
9. Business income or (loss). Attach Schedule C or C-EZ	12
10. Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E	17
11. Farm income or (loss). Attach Schedule F	12
12. Unemployment compensation	19
13. Social Security benefits	23,529
14. Other income (Specify in Part III) (Do not include on line 10 through 13)	0
Total income	100,000

Adjusted Gross Income: **100,000**

Subtract line 28 from line 22. This is your adjusted gross income.

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Medical Expenses (Cont'd)

SCHEDULE A
(Form 1040)

Itemized Deductions

OMB No. 1545-0045
2010
OMB No. 1545-0045
Form 1040-SS (07)

Name (print last, first, middle initial)
JOHN AND JANE SMITH

Address (street, apt., box, or care of)
1000-00-000

City or town, state, and ZIP+4®
STATEN ISLAND, NY 11550-0000

Medical Expenses

1 Medical and dental expenses (see instructions) **1** **20,000**

2 Line amount from 105, line 31 **2** **100,000**

3 Multiply line 2 by 7.5% (0.075) **3** **7,500**

4 Subtract line 3 from line 1. If line 3 is more than line 1, enter 0 **4** **12,500**

State and local (check only one box)

5 None, state or local

6 General sales taxes **6** **1,250**

7 Other state taxes (see instructions)

8 Other taxes. List type and amount **8**

9 **1,250**

Interest You Paid

10 **10** **11** **12** **13** **14** **15** **16** **17** **18** **19** **20** **21** **22** **23** **24** **25** **26** **27** **28** **29** **30** **31** **32** **33** **34** **35** **36** **37** **38** **39** **40** **41** **42** **43** **44** **45** **46** **47** **48** **49** **50** **51** **52** **53** **54** **55** **56** **57** **58** **59** **60** **61** **62** **63** **64** **65** **66** **67** **68** **69** **70** **71** **72** **73** **74** **75** **76** **77** **78** **79** **80** **81** **82** **83** **84** **85** **86** **87** **88** **89** **90** **91** **92** **93** **94** **95** **96** **97** **98** **99** **100**

Total Itemized Deductions

29 Add the amounts in the far right column for lines 4 through 28. Also, enter the amount on Form 1040, line 40 **29** **13,750**

30 If you elect to bypass deductions even though they are less than your standard deduction, check here **30**

BAI For Paperwork Reduction Act Notice, see Form 1040 Instructions. FORM 1040-SS 2010 Schedule A (Form 1040) 2010

Medical Expenses (Cont'd)

Form 1040 (2010) **JOHN AND JANE SMITH** **000-00-000** **Page 2**

Tax and Credits

38 Amount from line 37 (deducted gross income) **38** **100,000**

39 Check If you were born before January 2, 1946, blind, Total bases **39** **100,000**

40 Standard deduction (see instructions) **40** **13,350**

41 Subtract line 40 from line 38 **41** **86,650**

42 Exemption amount (see instructions) **42** **1,350**

43 Taxable income. Subtract line 42 from line 41. **43** **88,000**

44 Tax (see instructions). Check if any tax is from: Form(s) 9814 **44** **12,034**

45 Form(s) 9872 **45** **12,034**

46 Alternative minimum tax (see instructions). Attach Form 6251 **46** **12,034**

47 Add lines 44 and 45 **47** **24,068**

48 Foreign tax credit. Attach Form 1116 if required **48** **0**

49 Credit for child and dependent care expenses. Attach Form 2441 **49** **0**

50 Education credits from Form 8863, line 23 **50** **0**

51 Retirement savings contributions credit. Attach Form 8880 **51** **0**

52 Child tax credit (see instructions) **52** **0**

53 Residential energy credit. Attach Form 5695 **53** **0**

54 Other tax credits (see instructions). List type and amount **54**

55 Subtract line 54 from line 47. If line 54 is more than line 47, enter 0 **55** **24,068**

56 Add to line 55 the amount from line 48 **56** **24,068**

57 Add to line 56 the amount from line 49 **57** **24,068**

58 Add to line 57 the amount from line 50 **58** **24,068**

59 Add to line 58 the amount from line 51 **59** **24,068**

60 Add to line 59 the amount from line 52 **60** **24,068**

61 Add to line 60 the amount from line 53 **61** **24,068**

62 Add to line 61 the amount from line 54 **62** **24,068**

63 Add to line 62 the amount from line 55 **63** **24,068**

64 Add to line 63 the amount from line 56 **64** **24,068**

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68 Add to line 67 the amount from line 60 **68** **24,068**

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71 Add to line 70 the amount from line 63 **71** **24,068**

72 Add to line 71 the amount from line 64 **72** **24,068**

73 Add to line 72 the amount from line 65 **73** **24,068**

74 Add to line 73 the amount from line 66 **74** **24,068**

75 Add to line 74 the amount from line 67 **75** **24,068**

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79 Add to line 78 the amount from line 71 **79** **24,068**

80 Add to line 79 the amount from line 72 **80** **24,068**

81 Add to line 80 the amount from line 73 **81** **24,068**

82 Add to line 81 the amount from line 74 **82** **24,068**

83 Add to line 82 the amount from line 75 **83** **24,068**

84 Add to line 83 the amount from line 76 **84** **24,068**

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286 Add to line 285 the amount from line 278 **286** **24,068**

287 Add to line 286 the amount from line 279

Tangible Personal Property Deductible as Medical Expense

- ✎ Non-motorized wheelchairs
- ✎ Motorized scooters and wheelchairs
- ✎ Modification of automobile to accommodate a medical condition
- ✎ Crutches
- ✎ Canes
- ✎ Walkers
- ✎ Inclinator
- ✎ Specialized utensils, such as grippers
- ✎ Eyeglasses
- ✎ Detachable (i.e., window) air conditioner for the sole use of patient

11

Home Improvements Deductible As Medical Expenses

- ✎ Constructing entrance or exit ramps.
- ✎ Widening doorways at entrances and exits.
- ✎ Widening or otherwise modifying hallways and interior doorways.
- ✎ Installing railings, support bars, or other modifications to bathrooms.
- ✎ Lowering or otherwise modifying kitchen cabinets and equipment.
- ✎ Altering the location of or otherwise modifying electrical outlets and fixtures.
- ✎ Installing porch lifts and other forms of lifts.
- ✎ Modifying fire alarms, smoke detectors, and other warning systems.
- ✎ Modifying stairs.
- ✎ Adding handrails or grab bars whether or not in bathrooms.
- ✎ Modifying hardware on doors.
- ✎ Modifying areas in front of entrance and exit doorways.
- ✎ Grading of ground to provide access to the residence.

12

Home Improvements

- ☞ Sample Letter from Doctor – Need For Home Improvements (see *Handouts*).

13

Caregivers

- ☞ Comply with State and Federal law:
 - Immigration Law
 - Labor Law (Overtime, etc.)
 - Worker's Compensation Insurance Law
 - Payroll Tax Law
- ☞ Obtain a letter from your doctor (see *Handouts*) for income tax purposes.

14

Other Income Tax Issues

- ⌘ Early withdrawal from IRAs and employer retirement plans on account of disability.
- ⌘ Early withdrawal from IRAs and employer retirement plans to pay medical insurance and out-of-pocket expenses.

15

Essential Legal Documents – Property

- ⌘ In General
 - Consequences of no will
 - Small estate exception
 - Joint tenancy
 - Pay on death accounts
- ⌘ Simple Wills
 - Holographic
 - Witnessed
- ⌘ Living Trust

16

Simple Wills

- ⌘ Simple Holographic (Unwitnessed) Will (California) – (see *Handouts*).
- ⌘ Simple Witnessed Will (see *Handouts*).

17

Health-Related Documents

- ⌘ Two Types of Documents
 - Those not requiring a physician's signature
 - Those requiring a physician's signature

18

Documents Not Requiring a Physician's Signature

- ∞ Advance Health Care Directive - a.k.a.
 - Living Will
 - Personal Directive
 - Advance Directive
 - Advance Decision
 - Durable Power of Attorney for Health Care
- ∞ Statutory AHCD (see *Handouts*)
- ∞ California Medical Association AHCD Kit (see *Resources Handout*)
- ∞ HIPAA Waiver (see *Handouts*)

19

Documents Requiring a Physician's Signature

- ∞ POLST—Physician's Order for Life-Sustaining Treatment
- ∞ a.k.a. Do not Resuscitate or DNR
- ∞ Issues addressed by POLST
 - Not breathing and no pulse
 - Pulse or breathing
 - Whether to artificially feed
- ∞ California Statutory POLST (see *Handouts*)
- ∞ CMA POLST Kit (see *Resources Handout*)

20

Long-Term Care

- ⌘ Help in performing basic activities
 - Dressing
 - Bathing
 - Eating
 - Toileting
 - Continence
 - Transferring
 - Walking
- ⌘ Not covered by Medicare
- ⌘ Paying for it

21

Tax Treatment of Qualified Long-Term Care Insurance

- ⌘ Premiums deductible (subject to limits)
- ⌘ Benefits excludable from income
- ⌘ Employer provided LTC insurance excludable from income

22

“Qualifying” Long-Term Care Insurance

- ∞ Income Tax Definition of “LT Care Services”
- ∞ Income Tax Definition of “chronically ill”
- ∞ Income Tax Requirements for LT Care Insurance
 - No buildup of cash surrender value
 - Only long-term care provided
 - Costs covered do not include Medicare-covered costs

23

Public Benefits in General

- ∞ Plan in Advance
- ∞ Qualifying for Medicaid
 - Eligible for at least \$1 of SSI
 - Satisfy income test
 - Satisfy resources test
- ∞ Income Test
- ∞ Income Cap States

24

Public Benefits Resource Test

- ∞ Varies by state. Can be as low as \$2,000.
- ∞ Excluded Assets – see separate slide.

25

Public Benefits Resource Exclusions

- ∞ Your home (and appurtenant land);
- ∞ Household goods and personal effects;
- ∞ Automobiles;
- ∞ Property necessary for self-support;
- ∞ Burial plots;
- ∞ Portions of certain life insurance surrender values;
- ∞ Retroactive Title II and Title XVI payments (for nine months after receipt);
- ∞ Replacement values for certain lost, stolen, or damaged resources;
- ∞ Pension funds (IRAs, work-related pension plans, Keogh plans) of an ineligible spouse; and
- ∞ Miscellaneous exclusions.

26

Resources Test (Cont'd)

- ☞ Spouse assets
 - Count in determining Medicaid eligibility
 - Subject to exclusions, must be spent down to ceiling
- ☞ Gifting assets—36 month look-back
- ☞ Third party trusts
 - Established and funded by person other than disabled individual or spouse
 - Payments not paid directly to disabled person
 - Payments not used for food
 - Payments not used for shelter

27

Public Benefits – The Cost

- ☞ If you do receive public benefits, the state will have a lien on your home and other assets (if any).
- ☞ The state must be repaid on the death of the disabled person or his or her spouse.

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Public Benefits – Elder Law Specialists

- ☞ Consult with an Elder Law Specialist.

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Life Insurance in General

- ☞ Term Insurance
- ☞ Whole Life Insurance
- ☞ Blended Insurance

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Advantages of Life Insurance

∞ Advantages – All Life Insurance

- Income replacement
- Forced savings
- Known medical condition may make it sound investment
- Proceeds at death income tax-free

∞ Advantages – Whole Life

- Tax deferred buildup of income “inside” policy
- Potential estate tax benefits

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Disadvantages of Life Insurance

∞ Commissions are high.

∞ The annual administrative cost is high.

∞ The rates of return are not competitive.

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Assets & Sources of Income

- ∞ Life Expectancy Tables (*see Handout*)

- ∞ Need for Budget
 - Assets
 - Liabilities
 - Income
 - Expenses
 - Changes over time
 - Make sure to take long-term care into account

- ∞ Online software available (*see Resources Handout*)

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