

Tax Information for Non-Custodial Parents

The custodial parent is the parent with whom the child lived for the greater number of nights during the year. The other parent is the **non-custodial parent**.

Do you pay child support?

Child support payments are not tax deductible by the payer and they are not taxable income to the recipient. Paying child support does not necessarily entitle you to a dependency exemption.

Claiming Your Child as a Dependent

Generally, because of the residency test, a child of divorced or separated parents is the qualifying child of the custodial parent. However, the child will be treated as the qualifying child (for the purposes of claiming a **dependency exemption** and the **child tax credit**, but **not** for the **earned income credit**) of the noncustodial parent if all four of the following statements are true:

1. The parents:
 - a. are divorced or legally separated under a decree of divorce or separate maintenance,
 - b. are separated under a written separation agreement, or
 - c. lived apart at all times during the last 6 months of the year, whether or not they are or were married.
2. The child received over half of his or her support for the year from the parents.
3. The child is in the custody of one or both parents for more than half of the year.
4. The noncustodial parent attaches a Form 8332, or similar statement containing the same information required by the form, to his or her return. **The form must be signed by the custodial parent.** (See special rules in Publication 17 for a pre-1985 or post-1984 and pre-2009 divorce decree or separation agreement.)

See Publication 17 for additional rules for claiming an exemption for a dependent.

Child Tax Credit

- If you are entitled to claim a dependency exemption for your child based on the exception for children of divorced, separated, or never married parents described above, you can claim the child tax credit for your child who was under age 17 at the end of the year. See Publication 17 for additional rules.

Earned Income Credit (EIC)

The EIC is a refundable tax credit for low to-moderate-income taxpayers.

- A non-custodial parent can not claim EIC for a child that he or she has been given permission to claim as a dependent by a custodial parent.
- The IRS will request documentation such as school records, birth certificates or medical records to verify eligibility of a child claimed by more than one taxpayer.
- You may still be able to claim the credit, even if you do not have a qualifying child. See the rules and income limits in Publication 17 or Publication 596 for more information.

Treasury Offset Program

- If you are due a federal tax refund but have not paid certain debts such as child support, back taxes, or state back taxes, all or part of your federal tax refund may be applied to these unpaid debts. The Financial Management Service (FMS) will offset your refund and forward it to the agency to apply to your debt. Notification of the disbursement of funds is sent by mail. If you have questions about the Federal Tax Refund Offset Program, please contact FMS toll-free at 1-800-304-3107.
- Some past-due child support payments are assigned to the state when a custodial parent receives various state benefits. In this instance, the custodial parent may not receive past-due child support payments directly.
- When a joint return is filed and only one spouse owes a past-due amount, the other spouse can be considered an injured spouse and receive his or her share of the refund from the joint return. See Form 8379 and instructions for additional information.

References Available at www.irs.gov

- Form 8379, Injured Spouse Allocation
- Publication 17, Your Federal Income Tax
- Publication 501, Exemptions, Standard Deduction, and Filing Information
- Publication 596, Earned Income Credit
- Publication 972, Child Tax Credit
- EITC Assistant – An online tool to assist you in determining if you qualify for the EITC is available in English and Spanish. The EITC Assistant is available on www.irs.gov 24 hours a day, 7 days a week.

Additionally, you can call the IRS for assistance at **1-800-829-1040**

