

IS YOUR EX- SPOUSE IMPROPERLY CLAIMING YOUR CHILDREN

YOU CAN
STILL CLAIM
YOUR
CHILDREN ON
YOUR TAXES IF
YOU ARE THE
CUSTODIAL
PARENT!



CUSTODIAL V. NON-CUSTODIAL

1
ARE YOU
DIVORCED,
LEGALLY
SEPARATED, OR
HAVE BEEN LIVING
APART FROM YOUR
SPOUSE?

IF YES MOVE TO
STEP 2.

2
DO BOTH PARENTS
QUALIFY AS A
CUSTODIAL PARENT
BECAUSE THE
CHILD LIVES WITH
BOTH PARENTS
EQUALLY DURING
THE TAX YEAR?

IF THIS IS THE CASE, THE
TIEBREAKER RULE
APPLIES. LOOK INSIDE THE
BROCHURE TO DETERMINE
WHETHER YOU MEET THE
TEST.

3
DID YOU
ERRONEOUSLY
CLAIM YOUR CHILD
AS A DEPENDENT?

4
YOU CAN CORRECT
YOUR ERROR BY FILING
AN AMENDED TAX
RETURN.

5
ARE YOU THE
CUSTODIAL
PARENT?

YOU ARE THE CUSTODIAL
PARENT IF YOUR CHILD
MEETS THE "QUALIFYING
CHILD" TEST LAID OUT IN
THIS BROCHURE. IF YOU
ARE NOT THE CUSTODIAL
PARENT, YOU ARE NOT
ALLOWED TO CLAIM THE
CHILD UNLESS YOU OBTAIN
AN IRS FORM 8332
RELEASING THE
DEPENDENCY CLAIM
SIGNED BY THE CUSTODIAL
PARENT. WHAT IF THE
CHILD "PHYSICALLY" LIVES
WITH BOTH PARENTS
EQUALLY? MOVE TO STEP
3.

6
DID THE NON-
CUSTODIAL
PARENT
IMPROPERLY CLAIM
YOUR CHILD?

FILE A PAPER TAX RETURN
BY MAIL AND EXPECT TO
GET AUDITED BY THE IRS.
GATHER SUBSTANTIATION
TO SUPPORT YOUR CLAIM.



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QUALIFICATIONS

1.) DO YOU HAVE A "QUALIFYING CHILD" FOR A DEPENDENCY EXEMPTION?

- **RELATIONSHIP TEST:** THE QUALIFYING CHILD MUST BE A SON/DAUGHTER, SISTER/BROTHER, STEPCHILD, NEPHEW/NIECE, GRANDCHILD, ADOPTED CHILD, OR FOSTER CHILD.
- **AGE TEST:** THE CHILD MUST BE UNDER AGE 19 OR UNDER AGE 24 IF HE OR SHE IS A FULL-TIME STUDENT, OR A CHILD WITH A TOTAL AND PERMANENT DISABILITY REGARDLESS OF HIS/HER AGE.
- **RESIDENT TEST*:** THE CHILD MUST HAVE LIVED WITH THE TAXPAYER MORE THAN HALF OF THE YEAR. THE IRS COUNTS NIGHTS SPENT AT THE TAXPAYERS HOUSE WHEN DETERMINING WHETHER THE TEST IS MET.
- **SUPPORT TEST:** THE CHILD MUST NOT HAVE PROVIDED MORE THAN HALF OF HIS OR HER SUPPORT.

IF YOU MEET ALL OF THE TESTS ABOVE THEN YOU ARE A CUSTODIAL PARENT ELIGIBLE TO CLAIM THE DEPENDENCY EXEMPTION.

2.) WHAT IF BOTH PARENTS CLAIM THE QUALIFYING CHILD BECAUSE HE OR SHE LIVES WITH THE PARENTS FOR THE SAME AMOUNT OF TIME?

UNDER THE TIE-BREAKER TEST, THE IRS WILL GRANT THE QUALIFYING CHILD TO A TAXPAYER IN THE FOLLOWING ORDER:

- THE PARENT, IF ONLY ONE OF THE PERSONS CLAIMING THE CHILD IS THE CHILD'S PARENT.
- THE PARENT WITH THE HIGHEST ADJUSTED GROSS INCOME (AGI) IF THE CHILD LIVED WITH EACH PARENT FOR THE SAME AMOUNT OF TIME DURING THE TAX YEAR.

*THE IRS MAY REQUIRE VERIFICATION OF RESIDENCY TO DETERMINE WHICH PARENT IS ENTITLED TO CLAIM THE CHILD.

CUSTODY PARENT

/

NON-CUSTODIAL PARENT

TIP SHEET



KEEP A CALENDAR NOTING THE NIGHTS THE CHILDREN STAYED WITH YOU.



VERIFY THAT SCHOOL, DAYCARE, AND/OR MEDICAL RECORDS REFLECT THAT THE CHILDREN LIVE WITH YOU.

MAKE SURE THE CHILDREN ARE LISTED ON YOUR LEASE AND/OR OTHER HOUSING RECORDS.

KEEP COPIES OF WELFARE AGENCY NOTICES THAT LIST THE CHILDREN AS MEMBERS OF THE HOUSEHOLD.

IF YOU ARE THE NON-CUSTODIAL PARENT, YOU MUST OBTAIN A SIGNED FORM 8332 FROM THE CUSTODIAL PARENT TO CLAIM THE EXEMPTION.

GO THROUGH THE REQUIREMENTS LISTED IN THE IRS PUBLICATION 504:
[HTTPS://WWW.IRS.GOV/PUBLICATIONS/P504/ARO2.HTML#EN_US_2015_PUBLINK1000175898](https://www.irs.gov/publications/p504/ARO2.HTML#EN_US_2015_PUBLINK1000175898)

RACE TO FILE

THE CUSTODIAL PARENT (THE ONE WHO CAN CLAIM THE QUALIFYING CHILD) IS GENERALLY ENTITLED TO THE EXEMPTION. HOWEVER, A NON-CUSTODIAL PARENT SOMETIMES TRIES TO IMPROPERLY CLAIM THE CHILD BY FILING HIS OR HER TAX RETURN FIRST.

IT DOES NOT MEAN IT IS THE END OF THE STORY.

STEPS TO CLAIM THE QUALIFYING CHILD

FILING FIRST PREVENTS THE SECOND PARENT FROM FILING ELECTRONICALLY. IF YOU ARE ENTITLED TO CLAIM THE CHILD AND YOUR ELECTRONIC RETURN IS REJECTED:

- YOU SHOULD FILE THE RETURN BY MAIL AND KEEP PROOF OF MAILING.
- AFTER ABOUT 6 WEEKS, THE IRS WILL REVIEW BOTH RETURNS AND AUDIT ONE OR BOTH OF THE TAXPAYERS.
- IF THE IRS HAS ALREADY PROCESSED THE NON-CUSTODIAL PARENT'S RETURN, IT SHOULD STILL REVIEW THE CUSTODIAL PARENT'S RETURN AND GIVE HIM OR HER THE EXEMPTION IF HE OR SHE MEETS THE "QUALIFYING CHILD" TEST.
- THE NON-CUSTODIAL PARENT WILL BE ASKED TO RETURN THE PART