

Divorce and non-custodial, separated, or never married parents

 LIFECYCLESERIES

This publication presents basic information about some of the tax consequences of a divorce and some tax issues of non-custodial, separated, or never married parents.

► FILING STATUS

Your filing status is used in determining whether you must file a return, your standard deduction, and the correct tax. It also may be used in determining whether you can claim certain other deductions and credits. The filing status you can choose depends partly on your marital status on the last day of your tax year.

Married Filing Jointly

If you are married, you and your spouse can choose to file a joint return. If you file jointly, you both must include all your income, deductions, and credits on that return. You can file a joint return even if one of you had no income or deductions.

△ **Caution:** If you and your spouse file a joint return, filing another return for the same tax period, by either you or your spouse, may cause a delayed and/or a reduced refund.

Married Filing Separately

If you are married, your tax usually will be less if you file married filing jointly than if you file married filing separately. However, sometimes it can be to your advantage to file separate returns. Special rules may apply if you live in a community property state.

Head of Household

You may be able to file as head of household if you are unmarried or “considered unmarried” on the last day of the year, you paid more than half the cost of keeping up a home for the year, and a “qualifying person” lived with you in the home for more than half the year.

Amending Filing Status

If either you or your spouse files a separate return, you can change to a joint return any time within three years from the due date of the separate returns. If you and your spouse file a joint return, you cannot file separate returns after the due date of the joint return.

See IRS Publication 501, Publication 504, and Publication 555

► DEPENDENTS

In most cases, 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 of the noncustodial parent if the rule for children of divorced or separated parents (or parents who live apart) applies.

△ **Caution:** Claiming the same child on multiple tax returns for the same tax period may cause a delayed and/or a reduced refund.

Noncustodial Parent

The custodial parent is the parent with whom the child lived for the greater part of the year. The other parent is the noncustodial parent. In order for the noncustodial parent to claim the child as a dependent, the custodial parent generally must provide the noncustodial parent with either Form 8332, Release/Revocation of Release of Claim to Exemption for Child by Custodial Parent, or a similar statement (containing the same information required by the form).

See IRS Publication 501, Publication 504, and Form 8332

Parents who never married

The special rule for divorced or separated parents also applies to parents who never married.

► INCOME

Alimony

Alimony paid under a divorce decree or separation instrument dated before 2019 is deductible by the payer and taxable income to the payee. Amounts paid as alimony or separate maintenance payments under a divorce or separation instrument executed after 2018 aren't deductible by the payer. Such amounts also aren't includible in the income of the recipient. The same is true of alimony paid under a divorce or separation instrument executed before 2019 and modified after 2018, if the modification expressly states that the alimony isn't deductible to the payer or includible in the income of the recipient.

See **IRS Publication 504**

Child Support:

Child support is not a deductible expense nor is it taxable income.

Sale of Personal Residence:

If you sold your main home, you may be able to exclude up to \$250,000 (up to \$500,000 if you and your spouse file a joint return) of gain on the sale.

See **IRS Publication 504** and **Publication 523**

► DEDUCTIONS AND CREDITS

Itemized Deductions

For married filing separate returns, if one spouse itemizes, the other must also itemize. If you file a separate return, you generally report only your own income, credits, and deductions.

Child Tax Credit (CTC)

This credit is for individuals who claim a child as a dependent if the child meets additional conditions. Certain individuals who get less than the full amount of the CTC may qualify for the additional child tax credit (ACTC). The ACTC may give you a refund even if you do not owe any tax. This credit is in addition to the credit for child and dependent care expenses and the earned income credit.

See **IRS Publication 972**

Credit for Other Dependents (ODC)

This credit is for individuals with a dependent who meets additional conditions. A dependent who is not a qualifying child for the CTC may qualify for the ODC.

Earned Income Credit (EIC)

The EIC is a tax credit for certain people who work and have earned income below a certain amount. A tax credit usually means more money in your pocket. It reduces the amount of tax you owe. The EIC may also give you a refund.

See **IRS Publication 596**

Premium Tax Credit (PTC)

The PTC is a tax credit for certain people who enroll, or whose family member enrolls, in a qualified health plan offered through a Marketplace. The credit provides financial assistance to pay the premiums for the qualified health plan by reducing the amount of tax you owe, giving you a refund, or increasing your refund amount. If you, your spouse, or your family member is enrolled in a qualified health plan through the Marketplace, let the Marketplace know when you have a change in circumstances such as increase or decrease in household income, marriage, divorce, birth or adoption of a child, gaining or losing eligibility for government-sponsored or employer-sponsored health care coverage, or a change of address. These changes can alter your tax refund, or cause you to owe tax. Reporting these changes promptly will help you get the proper type and amount of financial assistance.

See **IRS Publication 974**

► TAXES AND PAYMENTS

Withholding

When you have a major life change, such as marriage, divorce, separation, or the birth of a child use the **Tax Withholding Estimator** to perform a “paycheck checkup.” Use your results from the Tax Withholding Estimator to help you complete a new Form W-4, Employee's Withholding Certificate, and submit the completed Form W-4 to your employer as soon as possible. Withholding takes place throughout the year, so it's better to take this step as soon as possible.

This will help you make sure you have the right amount of tax withheld from your paycheck.

See **IRS Publication 504**, **Publication 505**, and **Form W-4**

Estimated Tax Payments

If you and your spouse made joint estimated tax payments but subsequently file separate returns, either of you can claim all of your payments, or you can divide them in any way on which you both agree.

See **IRS Publication 504** and **Publication 505**

Responsibility for Tax Due

Generally, if you file a joint return with your spouse and later obtain a divorce, you are still responsible for the tax due on the joint return or any subsequent tax, interest, and penalties due as a result of an audit or amendment of the joint return. This applies even if your divorce decree states that your spouse is responsible for the payment of taxes. It also applies even though you may not have had any income on that tax return.

See **IRS Publication 504**

Innocent Spouse Relief

In some cases, a spouse will be relieved of the tax, interest, and penalties resulting from a liability on a jointly filed return. Generally, if you thought your spouse had paid the taxes due, or the IRS increased your taxes because of your spouse's unreported income or disallowed deductions and you knew nothing about your spouse's unreported or erroneous items when you signed the return, tax relief may be available to you.

See **IRS Publication 504, Publication 971, and Form 8857**

Injured Spouse Relief

If you file a joint return and all or part of your share of the overpayment is applied against your spouse's past-due federal tax, state income tax, child or spousal support, or federal nontax debt, such as a student loan, you may be entitled to injured spouse relief.

See **IRS Publication 504 and Form 8379**

Refunds

Refund checks issued from a joint return are usually mailed to the address shown on the tax return or deposited in the account specified. The IRS will not issue two checks payable to each spouse separately.

► MAINTAINING RECORDS

Address Change

If you change your mailing address, be sure to notify IRS using Form 8822, Change of Address.

See **IRS Form 8822**

Name Change

If you change your name, be sure to notify the Social Security Administration office so the name on your tax return is the same as the one the SSA has on its records.

Tax Records

Determine a mutually acceptable location for tax records and a procedure for accessing them. You may need these records in the future to prepare tax returns, assist in future tax planning, or for support in the event of an audit.

See **IRS Publication 17**

► RESOURCES

Forms and Publications

You can get these forms and publications from the IRS. They are available to view or download at **IRS.gov**.

- Publication 17, Your Federal Income Tax (For Individuals)
- Publication 501, Dependents, Standard Deduction, and Filing Information
- Publication 504, Divorced or Separated Individuals
- Publication 505, Tax Withholding and Estimated Tax
- Publication 523, Selling Your Home
- Publication 555, Community Property
- Publication 596, Earned Income Credit
- Publication 971, Innocent Spouse Relief
- Publication 972, Child Tax Credit
- Publication 974, Premium Tax Credit (PTC)
- Form W-4, Employee's Withholding Certificate
- Form 8332, Release/Revocation of Release of Claim to Exemption for Child by Custodial Parent
- Form 8379, Injured Spouse Allocation
- Form 8822, Change of Address
- Form 8857, Request for Innocent Spouse Relief

For questions about any of these credits or benefits, see **IRS.gov**.

Free Tax Return Assistance

IRS-certified volunteers provide free basic income tax return preparation with electronic filing to qualified individuals.

Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) programs are generally located at community and neighborhood locations across the country. To locate the nearest VITA or TCE site near you, use the **VITA Locator Tool**.