



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

September 22, 2000

Number: **200038059**

Release Date: 9/22/2000

152.06-00

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MEMORANDUM FOR CHIEF, CUSTOMER SERVICE DIVISION
ATTN: RICHARD POPRIK, TAXPAYER SERVICE
SPECIALIST

FROM: LEWIS J. FERNANDEZ
DEPUTY ASSOCIATE CHIEF COUNSEL
(INCOME TAX AND ACCOUNTING)

SUBJECT: Dependency Exemption for Kidnapped Child

This Chief Counsel advice is in further response to your memorandum dated April 6, 2000. Chief Counsel advice is not binding on Examination or Appeals and is not a final case determination. Under section 6110(k)(3) of the Internal Revenue Code, this document is not to be used or cited as precedent.

By memorandum dated July 25, 2000, we originally responded to your questions concerning whether parents were entitled to a dependency exemption for a minor child who was kidnapped by a stranger and was still missing at year end. See CCA 200034029. After further consideration, we believe our earlier advice on this issue should be revised as discussed below.

In these unusual circumstances, when no individual other than the parents has legal custody of the child or would be entitled to claim a dependency exemption, we believe it should ordinarily be presumed that the parents have incurred sufficient expenses for the support of a child to satisfy the support requirement of section 152(a). In particular, we do not believe that section 152(a) can reasonably be construed as requiring parents in such circumstances to establish that the expenses they incurred for the support of a child during a taxable year constituted over one half of the total support that the child received from all sources that year.

Otmishi v. Commissioner, T.C.M. 1980-472, which addressed which of two divorced parents was entitled to the dependency exemption, is distinguishable from this situation. See Code section 152(e).

If you have any questions, please call George Baker at (202) 622-4920.