



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

OFFICE OF  
CHIEF COUNSEL

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The Honorable Tom Price  
Member, U.S. House of Representatives  
3730 Roswell Road, Suite 50  
Marietta, GA 30062

Attention:

Dear Congressman Price:

I am responding to your enquiry dated March 9, 2011, submitted on behalf of your constituent, . He asked why a non-custodial parent that pays one-half of the support for the year of a qualifying child is not entitled to one-half of the dependency exemption deduction for that child.

In general, a child can be claimed as a dependent on only one tax return for any taxable year. Under § 152(c)(4) of the Internal Revenue Code (Code), if the child's parents do not file a joint return, then the custodial parent may take the dependency exemption deduction for that child. The custodial parent is generally the parent with whom the child lived for the greater number of nights during the year, and the non-custodial parent is the other parent. If the child lived with each parent for an equal number of nights, then the parent with the higher adjusted gross income may take the dependency exemption deduction for that child.

Under Section 152(e) of the Code, a non-custodial parent may claim a dependency exemption deduction for a child if the custodial parent signs a written declaration that he or she will not claim the exemption for the child, and the noncustodial parent attaches the written declaration to his or her tax return.

For taxable years beginning after July 2, 2008, the regulations under § 152(e) provide that the written declaration must be on Form 8332, *Release/Revocation of Release of Claim to Exemption for Child by Custodial Parent*, or other single-purpose document containing essentially the same information as Form 8332. A non-custodial parent may not, except for certain decrees executed before the effective date of the regulations, substantiate a custodial parent's release of a claim to the dependency exemption deduction for a child by attaching pages of a divorce decree. The regulations reflect

Congress' concern of substantiation problems for claiming a dependency exemption deduction for a child.

For further information, please see the enclosed copies of Form 8332 and its instructions, and pages 10 through 15 of Publication 501, *Exemptions, Standard Deduction, and Filing Information*.

I hope this information is helpful. If you have any questions, please contact  
or at .

Sincerely,

George J. Blaine  
Associate Chief Counsel  
(Income Tax and Accounting)

enclosure