

DEPENDENCY EXEMPTION FOR CHILDREN OF DIVORCED PARENTS

By: PATTY WARD, EA

Which parent will get the dependency exemption when the parents are divorced? In years past, the dependency exemption was often set forth in the divorce decree. In 2008, new regulations were issued regarding the determination of which parent could claim the dependency exemption. The new rule, called the “counting nights” rule, states that when a child of divorced or separated parents lives with both parents during the year, the custodial parent is entitled to the dependency exemption. The IRS defines the custodial parent as the parent with whom the child spends the greater number of nights.

A child is counted as residing with a parent for a night if the child sleeps at that parent’s home, regardless of whether the parent is present in the home during the night. If the child is with the parent overnight but not at the parent’s home (for example, on vacation), then the child is counted as residing with that parent as well. For nights that extend over two taxable years (December 31), the night is allocated to the taxable year when the night begins.

If the non-custodial parent is otherwise eligible for the dependency exemption, he/she can only claim the dependency exemption if the custodial parent releases the right to claim the exemption by completing Form 8332. The non-custodial parent must file the Form 8332 with their tax return.



If you have questions about this or any other business or tax issue, please contact your Account Manager or [Patty Ward, EA](mailto:Patty.Ward@connerash.com), at (314) 205-2510 or via email at pward@connerash.com.