



United States
General Accounting Office
Washington, D.C. 20548

General Government Division

B-258224

August 31, 1994

The Honorable William J. Coyne
House of Representatives

Dear Mr. Coyne:

Your July 6, 1994, letter asked us to provide suggestions on how the current provisions of section 152 of the Internal Revenue Code, which deals with the dependent exemption, could be improved. Your specific concern was with section 152(e)(2), which deals with circumstances in which noncustodial parents can claim the child dependent exemption. When parents are divorced or separated, only one can claim the dependent exemption. The exemption amount is \$2,450 in 1994.

Since 1985 the custodial parent has generally been allowed to claim the dependent exemption irrespective of the amount of support provided. The noncustodial parent may claim the exemption if either the custodial parent releases the right to claim the exemption to the noncustodial parent, or a pre-1985 divorce decree or written separation agreement unconditionally states that the noncustodial parent can claim the child as a dependent and the noncustodial parent provided at least \$600 support in that year. Thus, the noncustodial parent must bargain with the custodial parent for a transfer of the exemption.

Prior to 1985, noncustodial parents could claim the dependent exemption if they paid \$1,200 or more for the support of a child and the custodial parent did not clearly establish that he or she provided more support than the noncustodial parent. When disputes arose as to who was entitled to the exemption, the Internal Revenue Service (IRS) had to determine which parent was entitled to the exemption. To relieve IRS of the administrative burden of dealing with these disputes and to provide more certainty as to who could claim the exemption, Congress changed the law by allowing the custodial parent the exemption unless that spouse waived the exemption.

You asked us for suggestions on how the law could be changed to allow all noncustodial parents who provide over half of their children's support to claim the dependent exemption. Such a change would reintroduce the tax law complexity and administrative burden that Congress tried to minimize in 1984. The change would require both the custodial and noncustodial parent to maintain detailed records and do complex calculations to document that they provided more than half the dependent's support. Both taxpayers would have to track how much they spend for a dependent's expenses such as food, housing, clothing, medical and dental care, education, and transportation. And, when disputes arose, IRS would have to assume the burden of determining which taxpayer was entitled to the exemption.

We agree that under current law inequities may occur when the noncustodial parent provides more than half the support for a child and cannot claim the dependent exemption. However, we believe that current law provides more certainty to taxpayers as to who can claim the exemption and is less burdensome than the pre-1985 law. With such certainty, parents may decide between themselves who will take the deduction.

Furthermore, we issued a report last year which pointed out the complexity and burden associated with taxpayers documenting and calculating that they provided more than half of a dependent's support.¹ We estimated that 73 percent of the erroneous dependent claims made in 1988 were because taxpayers failed to meet the dependent support test. Of those not meeting this test, an estimated 57 percent failed to provide the necessary financial support and 43 percent lacked documentation that they provided half the child's support. Because of the taxpayer burden involved in proving support, we asked Congress to consider enacting legislation that would replace the support test with a residency test in cases where the dependent child lives with the taxpayer. Our proposed residency test would be similar to the one used to claim the Earned Income Tax Credit. Generally, a taxpayer can claim the credit if the child lived with the taxpayer for more than 6 months. We are enclosing a copy of that report for your information.

¹ Tax Administration: Erroneous Dependent and Filing Status Claims (GAO/GGD-93-60, Mar. 19, 1993).

B-258224

I trust that this information is responsive to your request. If you have any further questions, please call me on (202) 512-5407 or Ralph Block on (415) 904-2035.

Sincerely yours,



Jennie S. Stathis
Director, Tax Policy
and Administration Issues

Enclosure

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