



Divorce and Taxes

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Divorce and Taxes

Filing status. Your filing status is based on your marital status as of December 31. If you are divorced under a final decree by the last day of the year, you are considered unmarried for the whole year and you cannot choose Married Filing Jointly as your filing status. If you are still married at the end of the year (your divorce is not yet finalized), then you must file as Married Filing Jointly or Married Filing Separately, or Head of Household, if qualified. You cannot file as Single if you are married.

Joint responsibility. You may be held jointly and individually responsible for any tax, interest, and penalties due on a joint return filed before your divorce. This responsibility may apply even if your divorce decree states that your former spouse will be responsible for any amounts due on previously filed joint returns.

Name change. If you changed your name because of divorce, be sure to report the change to your local Social Security Administration office before filing your tax return. The name you enter on your tax return must be the same as what is on your Social Security card.

Dependents. In most cases, a child of divorced or separated parents is the qualifying child of the custodial parent (the parent with whom the child resides for the greater number of nights during the year). If the parents divorced or separated during the year and a child lived with both parents before the separation, the custodial parent is the one with whom the child lived for the greater number of nights during the rest of the year.

Form 8332. The custodial parent may sign Form 8332, *Release/Revocation of Release of Claim to Exemption for Child by Custodial Parent*, or a substantially similar statement that he or she will not claim the child as a dependent for the tax

year. The noncustodial parent must include a copy of the form or statement with his or her tax return.

Estimated tax. If you made joint estimated tax payments for the current year and you were divorced during the year, either you or your former spouse can claim all of the joint payments, or you each can claim part of them. If you cannot agree on how to divide the payments, you must divide them in proportion to each spouse's individual tax as shown on your separate returns for the current year.

Property Settlements and Transfers

Residence. If you transfer your home to your spouse or former spouse incident to your divorce, you will not recognize gain or loss.

Incident to divorce. Transfers are incident to divorce if they are:

- Made within one year after the date the marriage ends, or
- Related to the ending of the marriage—made under an original or modified divorce or separation instrument within six years after the date the marriage ends.

Sale of residence. For purposes of the sale of home exclusion of gain, an owner is treated as using property as his or her principal residence during any period that use is granted to a spouse or former spouse under a divorce or separation instrument.

Deducting Costs of Divorce

Legal fees paid for a spouse or former spouse may qualify as alimony. Fees paid to determine tax or for tax advice and fees paid to get or collect alimony are not deductible.