

## **Divorced or Separated Parents: When Can the Noncustodial Parent Claim a Child as a Dependent**

In most cases, because of the residency test, a child of divorced or separated parents is the qualifying child of the custodial parent. However, the child will be treated as the qualifying child of the non-custodial parent **if all four of the following statements are true.**

1. The parents:
  - a. Are divorced or legally separated under a decree of divorce or separate maintenance,
  - b. Are separated under a written separation agreement, or
  - c. Lived apart at all times during the last 6 months of the year, whether or not they are or were married.
2. The child received over half of his or her support for the year from the parents.
3. The child is in the custody of one or both parents for more than half of the year.
4. **Either** of the following statements is true.
  - a. The custodial parent signs a written declaration (for example, IRS Form 8332) that they won't claim the child as a dependent for the year, and the noncustodial parent attaches this written declaration to their return. This is the most common scenario.

**For More Information:** If the decree or agreement went into effect after 1984 and before 2009, see [IRS Pub 501, Post-1984 and pre-2009 divorce decree or separation agreement](#). If the decree or agreement went into effect after 2008, see [IRS Pub. 501, Post-2008 divorce decree or separation agreement, later.](#)

- b. A pre-1985 decree of divorce or separate maintenance or written separation agreement that applies to 2020 states that the noncustodial parent can claim the child as a dependent, the decree or agreement wasn't changed after 1984 to say the noncustodial parent can't claim the child as a dependent, and the noncustodial parent provides at least \$600 for the child's support during the year. This is a less common scenario.

**Note:** See IRS Publication 501, Dependents, Standard Deduction, and Filing Information for more details and information.

## **How to Assist the Taxpayer**

If statements (1) through (4) are all true for the tax years being prepared, then:

The **NONCUSTODIAL** parent:

- **Can claim** the child as a dependent and claim the child as a qualifying child for the child tax credit or the credit for other dependents.
- **Cannot claim** Head of Household filing status or the credit for child and dependent care expenses, the exclusion for dependent care benefits, the earned income credit (EIC), or the health coverage tax credit.

In TaxSlayer, be sure to check that the dependent child is not claimed for EIC.

**Check All That Apply:**

This person was over age 18 and a full-time student at an eligible educational institution.

Check if this person was DISABLED.

Check if this qualifying child is NOT YOUR DEPENDENT.

Check if you wish NOT to claim this dependent for Earned Income Credit purposes.

Check if this dependent is married.

This dependent made over \$4,300 of income

This dependent qualifies for a Multiple Support Declaration.

The **CUSTODIAL** parent:

- **Can claim** Head of Household filing status (provided they meet all other tests for this filing status) and the credit for child and dependent care expenses, the exclusion for dependent care benefits, the earned income credit (EIC), etc.

- **Cannot claim** the child as a dependent for the child tax credit or the credit for other dependents.

In TaxSlayer, be sure to check that the qualifying child is not a dependent for tax purposes.

**Check All That Apply:**

- This person was over age 18 and a full-time student at an eligible educational institution.
- Check if this person was DISABLED.
- Check if this qualifying child is NOT YOUR DEPENDENT.**
- Check if you wish NOT to claim this dependent for Earned Income Credit purposes.
- Check if this dependent is married.
- This dependent made over \$4,300 of income
- This dependent qualifies for a Multiple Support Declaration.