

## Child Support and Taxes

**Tax Consequences of Child Support:** Child support payments, generally, are not deductible as an itemized deduction on the payor's income tax returns and, likewise, generally are not reported as income on the recipient's income tax return. There is a way around this legal requirement<sup>1</sup> and, in many cases achieve significant tax benefits for most people paying child support.

The income tax dependency exemptions for the children are sometimes awarded to the parent paying child support, and sometimes are divided between the parents. The allocation of the income tax dependency exemption is an element of support over which the trial court has discretion.<sup>2</sup> Indeed, some courts have gone so far as to declare that a non-custodial parent who exercises substantial visitation is entitled – that's right, entitled – to the dependency exemption on their taxes in at least alternate years.<sup>3</sup>

**"Un-allocated" Child Support and Maintenance:** Any divorce lawyer worth his salt should be able to help a custodial parent receive more money in support and maintenance and help a non-custodial parent pay less money at the same time. This is the legal equivalent of "2 + 2 = 5" A loophole exists in the law that, essentially, permits payments that are made for child support to be called "maintenance." That has the effect of making the payments a tax deduction for the payor and taxable income for the recipient. A good lawyer will be able to work with the incomes of both parents to achieve the maximum tax savings for both – and it's the IRS that loses. So, really, "2 + 2 = 5 - 1" – you and your former spouse get the "5" and the IRS gets the "-1."

Be very careful about being creative with child support and taxes without the help of an attorney who has experience in the field. The IRS has many tests to see if you're doing things right.<sup>4</sup> If you make a mistake, you could end up losing much more money than you'll save.

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This article was written by the law office of Cowell Taradash, P.C., whose attorneys are familiar with the latest court decisions, recent changes in the law and even the tendencies of many judges. We can help. Contact us at 866.987.6723 or [info@illinoisdivorce.com](mailto:info@illinoisdivorce.com).