



Divorce Taxation: Overview, Filing Status, and Alimony

Course #3121A

Taxes

2 Credit Hours

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DIVORCE TAXATION: OVERVIEW, FILING STATUS, AND ALIMONY

This course cover the general tax issues associated with divorce. It also covers in more the detail issues involving filing status and the tax consequences of alimony.

LEARNING ASSIGNMENTS AND OBJECTIVES

As a result of studying each assignment, you should be able to meet the objectives listed below each individual assignment.

SUBJECTS

Introduction to Divorce Taxation
Filing Status
Alimony

Study the course materials from pages 1 to 56

Complete the review questions at the end of each chapter

Answer the exam questions 1 to 10

Objectives:

- Recall the overall tax issues associated with divorce.
- Recognize the importance of marital status when choosing an appropriate filing status.
- Identify the tax consequences of alimony for the payor and payee.

NOTICE

This course is sold with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional advice and assumes no liability whatsoever in connection with its use. Since laws are constantly changing, and are subject to differing interpretations, we urge you to do additional research and consult appropriate experts before relying on the information contained in this course to render professional advice.

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EXAM OUTLINE

- **TEST FORMAT:** The final exam for this course consists of 10 multiple-choice questions and is based specifically on the information covered in the course materials.
- **ACCESS FINAL EXAM:** Log in to your account and click Take Exam. A copy of the final exam is provided at the end of these course materials for your convenience, however you must submit your answers online to receive credit for the course.
- **LICENSE RENEWAL INFORMATION:** This course qualifies for **2** CPE hours.
- **PROCESSING:** You will receive the score for your final exam immediately after it is submitted. A score of 70% or better is required to pass.
- **CERTIFICATE OF COMPLETION:** Will be available in your account to view online or print. If you do not pass an exam, it can be retaken free of charge.

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CHAPTER 1: INTRODUCTION TO DIVORCE TAXATION

Chapter Objective

After completing this chapter, you should be able to:

- Recall the overall tax issues associated with divorce.

I. WHAT'S NEW

A. ALIMONY

Alimony payments (but **not** child support) made pursuant to a divorce or separation agreement entered into **on or before** December 31, 2018 are deductible by the payer and included in the income of the recipient for tax purposes. Thus, alimony payments made in 2018 are deductible to the payer and includible in the recipient's income.

However, under the TCJA, alimony payments will no longer be tax-deductible to the payer or includible in the income of the recipient if made under:

- a. A divorce or separation agreement entered into **after** December 31, 2018; or
- b. A divorce or separation agreement entered into on or before December 31, 2018, but modified after that date if the modified agreement specifically provides that the provisions of the Tax Cuts and Jobs Act of 2017 will apply.

Alimony payments made under a divorce or separation agreement entered into on or before December 31, 2018, but paid after that date - with the exception of such payments made under a modified agreement described in b) above - will continue to be tax-deductible to the payer and includible in the income of the recipient.

II. AN OVERVIEW OF ISSUES

There are few situations in life that create as much emotional angst as divorce. As happy as people typically are when they are planning their wedding, they are ten times as angry when they are going through a divorce. Not only are there the typical emotional issues involved when a couple splits up, there are often issues with children and, of course, money. And what discussion about money can be complete without a consideration of taxes. There are many, many different issues associated with a divorce that can raise important tax considerations. Here are just a few of the questions a CPA might expect to receive when a client is contemplating or actually going through a divorce:

Question 1: *I am divorced and pay child support. My children live with their mother and she claims them on her tax returns. Can I claim head of household?*

Answer 1: No, your children do not qualify you for the head of household filing status.

Question 2: *How do you claim a child if you agree with your ex-spouse to claim him 6 months and he claims him the other 6 months of the year?*

Answer 2: The dependency exemption can not be split. Generally, the custodial parent is treated as the parent who provided more than half of the child's support. This parent is usually allowed to claim the exemption for the child if the other exemption tests are met. However, the noncustodial parent may be treated as the parent who provided more than half of the child's support if certain conditions are met.

Question 3: *My 7 year old son lived in my household for seven months of the year, and I provided all of his support. I paid child support to his other parent for the other five months. Can I claim my son as a dependent and for a child tax credit without Form 8332?*

Answer 3: Generally, the custodial parent is treated as the parent who provided more than half of the child's support. This parent is usually allowed to claim the exemption for the child if the other dependency tests are met. However, the noncustodial parent may be treated as the parent who provided more than half of the child's support if the custodial parent releases the exemption by signing a Form 8332, *Release/Revocation of Release of Claim to Exemption for Child by Custodial Parent*, or a substantially similar statement. Note, also, that if you can claim your son as a dependent and he is under age 17 at the end of the tax year and a citizen or resident of the United States, you may be able to claim the Child Tax Credit.

Question 4: *What is the tax form number for the custodial parent to sign that allows the noncustodial parent to use the child as a dependent?*

Answer 4: The custodial parent should use Form 8332, *Release/Revocation of Release of Claim to Exemption for Child by Custodial Parent*, or a substantially similar statement, to release the exemption to the noncustodial parent. The noncustodial parent must attach the form or statement to his or her tax return. Please be aware that if the custodial parent releases the exemption for a child, the custodial parent may not claim a child tax credit for that child.

Question 5: *I have a court order that says I have the tax exemption for my minor child until further order of the court. Can I just send a copy of the court order with my prepared taxes or do I have to have a waiver signed by the other parent?*

Answer 5: Unless the court order was executed before 1985, you must obtain a waiver from the other parent. You are required to submit a signed Form 8332 (PDF), *Release/Revocation of Release of Claim to Exemption for Child by Custodial Parent*, or a substantially similar statement containing the information required by the form. A court order, executed before 1985, that entitles the non-custodial parent to the exemption is sufficient if you have provided at least \$600 of the child’s support during the year.

Question 6: *Can a court order determine who takes a child for a deduction? Does the court order supersede the IRS requirements?*

Answer 6: Federal law determines who may claim a dependency exemption.

An accountant needs to be able to answer these and other questions when a client is going through a divorce. Obviously, the more complex a person’s financial situation, the more issues there will be to resolve. It is bad enough that property must be divided up when a couple divorces, but it needs to be done in a way that minimizes the tax liability of your client. The following is a summary of some of these major issues, which are discussed in greater detail in the chapters that follow.

III. ISSUES IN DIVORCE

TABLE 1.1. TAX IMPLICATIONS OF VARIOUS ISSUES ASSOCIATED WITH DIVORCE

Issue	Tax Implications
Alimony	<ul style="list-style-type: none"> • Alimony payments are tax deductible for the ex-spouse making the payments and taxable to the ex-spouse receiving the payments prior to 2019. As noted on page 1, this tax treatment is not applicable to most divorce and separation agreements entered into after 2018. • The tax treatment of alimony payments based on agreements entered into prior to 2019 makes it tempting for divorcing spouses to try to disguise property settlement and child support as alimony. For that reason, the IRS has strict rules about what’s considered alimony for tax purposes. • The IRS will consider money paid as alimony to be property settlement funds (and not deductible) if it’s “front-loaded” (concentrated in too short a period of time directly after the divorce).