



September 5, 2008

Dependents of Divorced Parents

On August 18, 2008, the IRS released Revenue Procedure 2008-48, which establishes a new procedure for the "claiming" of dependents between divorced parents.

The new definition is used to determine whether a child is a dependent for purposes of eligibility for health and fringe benefits, including the exclusion from gross income for employer-provided medical expense reimbursements (the Medical Flex Spending account benefit and Health Reimbursement Arrangements) and employer-provided coverage under accident and health plans:

- Medical expense reimbursements,
- Coverage under an accident or health plan,
- Fringe benefits and employee discounts,
- Distributions from Archer Medical Savings Accounts, and
- Distributions from Health Savings Accounts.

For these benefits, 2008-48 amends Internal Revenue Code Section 152 to allow both parents to claim the child as a dependent if:

1. the child qualifies as a dependent of one of the parents;
2. the parents (both parents together) provide more than ½ of the child's support for the calendar year;
3. the child is in the custody of one or both parents for more than ½ of the calendar year; and
4. the parents are divorced, legally separated under a decree of separate maintenance, separated under a written separation agreement, or live apart at all times during the last six (6) months of the calendar year.

For more information about this Revenue Ruling:

<http://www.irs.gov/pub/irs-drop/rp-08-48.pdf>