

MODIFICATION OF THE RIGHT TO CLAIM DEPENDENCY TAX EXEMPTIONS

Federal law controls when and how an individual can claim child dependency tax exemptions. But, did you know that a State Court Judge in New Jersey can decide who is allowed to take the exemptions and whether changes can be made to that designation?

Child exemptions reduce your taxable income. Therefore, there is a tax benefit to the individual who can claim the exemptions. While there are many factors which may lead a Judge to decide how child dependency tax exemptions should be allocated, Court's in New Jersey take an equitable approach to this issue and often split the available exemptions to fairly distribute these benefits.

Nonetheless, even after you and your former spouse have either worked out a settlement on this issue, or a Judge has entered an order on this issue, it can be changed by the Court based upon changed circumstances. Suppose you have three children and three available dependency exemptions at the time of your divorce. Since your former spouse was earning far more than you at the time divorce, the settlement agreement or Court order, gave your former spouse two dependency tax exemptions.

Child support is subject to modification based upon changes in your financial circumstances. If one of the parties is seeking a change in the level of child support a request can be made to re-allocate the dependency tax exemptions, too. If the level of child support is being changed because of changed financial circumstances, it may be the right time to divide the tax exemptions in a more equitable manner.

A change to the allocation of the tax exemptions is within the sound discretion of the Court. It is an issue which is often forgotten, but can provide a significant tax benefit.