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HEAD OF HOUSEHOLD FILING STATUS

By Victor Sy, CPA, MBA

Why would single or separated taxpayers file as Heads of Household? Let us count the ways:

1. You have a lower tax rate than a single or married person filing separately.
2. You receive a higher standard deduction (\$8,500 versus \$5,800 for single and separate filers).
3. You may be entitled to childcare credit,
4. You may even qualify for that nice refundable earned income credit - even if your withholding is zero (reverse income tax for the poor).
5. You would pay less tax or receive more refund.

You can file as Head of Household if you:

1. Maintain a home for a dependent (child, parent, brother, sister-in-law, uncle, niece) if you lived apart from your spouse on or before July 1 through December 31.
2. Pay more than half the costs of maintaining that home.
 - A. Costs to maintain home include rent, mortgage, insurance, repairs, and food consumed at home.
 - B. Costs do not include clothes, education, vacation, medical care, life insurance, and transportation.
3. Are unmarried (or considered unmarried) on December 31.

You may be considered unmarried for last year (even if you were still married) if you lived apart from your spouse on or before July 1 through December 31.

Here are some tips for you:

1. You are considered to occupy the same household despite the temporary absence of your dependent due to schooling, military absence, or illness.
2. Do not use the same address with your spouse. You are not supposed to be living together.
3. You can qualify as Head of Household even if your spouse was a non-resident alien.
4. The State of California audits head of household status every three years. Have a professional tax accountant check your answers before mailing it to the Franchise Tax Board (FTB). If you check the wrong boxes, your preferential status as head of household may be disallowed causing you to pay a tax bill as either single or married filing separate to the FTB. The State shares this data with the IRS who will bill you at a later date.

DEVELOPMENT 1: The IRS National Office has just advised that a married taxpayer entitled to file as head of household can take the *full standard deduction* even if the other spouse itemizes. This is a case where one spouse qualifies to file as an unmarried head of household while the other spouse can only file as married filing separately. However, if the spouse who files as head of household elects to *itemize*, the other spouse cannot use the benefits of standard deduction and must itemize.

DEVELOPMENT 2: New law adopts a uniform definition of a child. Several sections of the Internal Revenue Code define "child" inconsistently resulting in different interpretations in determining dependency exemption, head of household, child tax credit, dependent child credit, earned income credit. The most dramatic change from the uniform definition of a child is to heads of household.

Dependency Exemptions for Children

Old Rules in a Nutshell: Under prior law, a dependency exemption deduction was generally allowed for a child only when the taxpayer furnished more than half the child's support for the year, except in certain divorce and separation situations [see former IRC Sec. 152(a) and (e)]. Also, unless the child was under age 19 or an under-age-24 full-time student, the child could not be claimed as a dependent if he or she had gross income in excess of the dependency exemption amount for that year.

New Rules for Qualifying Child: For a child who meets the definition of a qualifying child, the new dependency exemption guidelines eliminate the previous requirement for the taxpayer to provide over half the child's support. In its place is a new residency requirement that says a qualifying child must share the same principal place of abode with the claiming taxpayer for over half the year (except in certain divorce or separation situations, as explained later). A qualifying child must also meet an age requirement. He or she must be either: (1) under age 19 as of December 31 of the applicable year or (2) under age 24 as of December 31 and a full-time student for at least five months during the year.