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TAX

Georgia Says Embryos are Dependents for Tax Purposes

The state of Georgia's taxation department has announced that taxpayers can claim fertilized embryos as dependents for tax purposes.

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The state of Georgia's taxation department has announced that taxpayers can claim fertilized embryos as dependents for tax purposes. This may cause complications with state tax returns piggybacked onto federal 1040s, since the IRS does not define

dependents in the same way. From the Georgia Department of Revenue announcement:

“In light of the June 24, 2022, U.S. Supreme Court ruling in *Dobbs v. Jackson Women’s Health Organization* and the July 20, 2022, 11th Circuit Court of Appeals ruling in *Sistersong v. Kemp*, the Department will recognize any unborn child with a detectable human heartbeat, as defined in O.C.G.A. § 1-2-1, as eligible for the Georgia individual income tax dependent exemption. The 11th Circuit’s ruling made HB 481’s amendment to O.C.G.A § 48-7-26(a), adding an unborn child with a detectable heartbeat to the definition of dependent, effective as of the date of the court’s ruling, which was July 20, 2022.

As such, on individual income tax returns filed for Tax Year 2022 where, at any time on or after July 20, 2022, and through December 31, 2022, a taxpayer has an unborn child (or children) with a detectable human heartbeat (which may occur as early as six weeks’ gestation), the taxpayer may claim a dependent personal exemption as provided for under O.C.G.A § 48-7-26(a) and (b) (3) in the amount of \$3,000.00 for each unborn child. For Tax Year 2022, the deduction for dependent unborn children will be a subtraction on Line 12, “Other Adjustments,” of Form 500 Schedule 1.

Similar to any other deduction claimed on an income tax return, relevant medical records or other supporting documentation shall be provided to support the dependent deduction claimed if requested by the Department.

Additional information, including return instructions to claim the personal exemption for an unborn child with a detectable heartbeat, will be issued later this year along with other tax changes impacting Tax Year 2022 Georgia individual income tax returns.”

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