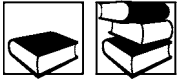




Dependents



Introduction

Identifying and determining the correct number of dependents is a critical component of completing the taxpayer's return. The deduction for personal and dependency exemptions is suspended for tax years 2018 through 2025 by the Tax Cuts and Jobs Act. Although the exemption amount is zero, the ability to claim a dependent may make taxpayers eligible for other tax benefits. For example, the following tax benefits may all be associated with a dependent: child tax credit, additional child tax credit, credit for other dependents, earned income credit, child and dependent care credit, head of household filing status, and other tax benefits.

See the Volunteer Resource Guide, Tab C, Dependents for helpful probing questions to use when interviewing the taxpayer.

When the interview is complete, the results are documented on the intake and interview sheet. This information will be the basis of your entries in the tax software.

Objectives

At the end of this lesson, using your resource materials, you will be able to:

- Determine if a taxpayer may claim a dependent by applying the applicable dependency test

What do I need?

- Form 13614-C
- Publication 4012
- Publication 17

Optional:

- Publication 501
- Form 2120
- Form 8332

Who are dependents?

Dependents are either a qualifying child or a qualifying relative of the taxpayer. The taxpayer's spouse cannot be claimed as a dependent. Some examples of dependents include a child, stepchild, brother, sister, or parent.



Persons who qualify to be claimed as a dependent may be required to file a tax return if they meet the filing requirements.

How do I apply the dependency tests?

The Marital Status and Household Information section of the intake and interview sheet addresses the issues concerning dependency, but you will still need to use your interview skills to clarify whether the individuals listed are eligible to be claimed as dependents.

Use caution when preparing this section of the taxpayer's return. Use the Volunteer Resource Guide, Tab C, Dependents, for guidance on asking probing questions to verify the information on the intake and interview sheet. Avoid using information from the taxpayer's prior year documents to complete this section.

How do I use the Volunteer Resource Guide?

Refer to Tab C, Dependents, in the Volunteer Resource Guide for tools to assist you in determining if a taxpayer may claim a dependent. Whether you are a new or returning volunteer, Tables 1, 2, and 3 provide interview tips with guidelines and definitions to help you apply the dependency tests. They incorporate all of the exceptions, such as the special rules for children of divorced or separated parents as well as the special

multiple support rules.

When determining if a taxpayer can claim a dependent, always begin with Table 1: All Dependents. If you determine that the person is not a qualifying child, then move to Table 2: Qualifying Relative Dependents. Depending on the taxpayer's answers, you may also be prompted to use Table 3: Children of Divorced or Separated Parents or Parents Who Live Apart or you may use the Qualifying Child of More Than One Person chart. All of these tools are found in the Volunteer Resource Guide, Tab C, Dependents. As you become more experienced with the qualifying child and qualifying relative rules, you may find that you prefer the Overview of the Rules for Claiming a Dependent chart instead.

What tests must be met for all dependents?

A dependent may be either a qualifying child or a qualifying relative. Both types of dependents have unique rules, but some requirements are the same for both.



The tests for qualifying relative are applied only when the tests for qualifying child are not met.

To determine if an individual can be claimed as a dependent, begin with the rules that apply to **both** qualifying child and qualifying relative:

- Dependent taxpayer test
- Joint return test
- Citizen or resident test

Dependent Taxpayer Test

A taxpayer (or taxpayer's spouse, if filing a joint return) who may be claimed as a dependent by another taxpayer may not claim anyone as a dependent on his or her own tax return. Part I of the intake and interview sheet asks, "Can anyone claim you or your spouse as a dependent?" If taxpayers answer yes, they cannot claim a dependent. Use your interview skills because some taxpayers, particularly students, might not be sure of the answer to this question.

Joint Return Test

A married person who files a joint return cannot be claimed as a dependent unless that joint return is filed only to claim a refund of withheld income tax or estimated tax paid.

example

Ruth, who had no income, was married in November of the tax year. Ruth's husband had \$30,000 income and had a filing requirement. Although Ruth's father supported her and paid for the wedding, he cannot claim her as a dependent because she is filing a joint return with her husband.

Citizen or Resident Test

To be claimed as a dependent, a person must be a U.S. citizen, U.S. resident alien, U.S. national, or a resident of Canada or Mexico.

- If a U.S. citizen or U.S. national legally adopts a child who is not a U.S. citizen, U.S. resident alien, or U.S. national, this test is met as long as the child lives with the taxpayer as a member of the household all year. If all other dependency tests are met, the child can be claimed as a dependent. This also applies if the child was lawfully placed with the taxpayer for legal adoption.
- Foreign exchange students generally are not U.S. residents and do not meet the citizen or resident test; they cannot be claimed as dependents.

example

Joan, who is a U.S. citizen, adopted an infant boy from Cambodia who lived with her for the entire tax year. Even though Joan's child is not yet a U.S. citizen, he meets the citizen or resident test because he was a member of Joan's household for the entire year.

What are the tests for qualifying children?

The next step to determine if the taxpayer has a dependent is to apply the rules for a qualifying child. If these tests are not met, see if the tests for a qualifying relative are met. Remember, a person must meet the requirements of either a qualifying child or a qualifying relative to be claimed as a dependent. While reading about these tests, follow steps 5-9 in the Volunteer Resource Guide, Tab C, Dependents, Table 1.

Relationship

To meet this test, the child must be:

- The taxpayer's son, daughter, stepchild, foster child (placed by an authorized placement agency), or a descendant (for example, a grandchild) of any of them
- The taxpayer's brother, sister, half-brother, half-sister, stepbrother, stepsister, or a descendant (for example, niece or nephew) of any of them

An adopted child is treated the same as a natural child. This includes a child who was lawfully placed with the taxpayer for legal adoption.

Age

To meet this test, the child must be:

- Under age 19 at the end of the tax year and younger than the taxpayer (or the taxpayer's spouse, if filing jointly), or
- A full-time student under the age of 24 at the end of the year and younger than the taxpayer (or spouse, if filing jointly), or
 - To qualify as a student, the child must be enrolled in the number of hours or courses the school considers full-time during some part of at least five months of the year. See Publication 17 for additional details.
- Any age if permanently and totally disabled at any time during the year



Attending an on-the-job training course, correspondence school, or a school offering courses only through the Internet, does not qualify the child as a student.

Residency

To meet this test, the child must have lived with the taxpayer for more than half the year. The taxpayer's home is any location where they regularly live; it does not need to be a traditional home. For example, a child who lived with the taxpayer for more than half the year in one or more homeless shelters meets the residency test.

Exceptions to the Residency Test

The child is considered to have lived with the taxpayer during periods of time when either the child or the taxpayer is temporarily absent due to illness, education, business, vacation, military service, institutionalized care for a child who is permanently and totally disabled, or incarceration.

A child who was born (or died) during the year is treated as having lived with the taxpayer for more than half of the year, if the taxpayer's home was the child's home for more than one-half of the portion of the taxable year during which the individual was alive.

Taxpayers may claim as a dependent a child who was born or died, or was kidnapped during the year, as long as the other dependency tests are met.



In the case of a child who was born and died during the year, a SSN is not required but the return cannot be e-filed. The tax return must be mailed. Refer to Publication 17 for specific rules for these rare situations.

A taxpayer may *not* claim a stillborn child as a dependent.

In most cases, because of the residency test, a child is the qualifying child of the custodial parent. However, special rules apply to divorced or separated parents or parents who live apart, which are covered later in this lesson.

Support

To meet this test, the child cannot have provided more than half of his or her own support during the tax year. This test is different from the support test for qualifying relative. A person's own funds are not support unless they are actually spent for support. If the taxpayer is unsure whether the child provided more than half of his or her own support, review the Worksheet for Determining Support in the Volunteer Resource Guide together.

example

Bob, 22, is a full-time student and lives with his parents when he is not in the dorm. He worked part-time, but did not pay over half of his total support. Bob meets the relationship, age, residency, and support tests.

example

Doris, a U.S. citizen, is 8 years old and had a small role in a television series. She made \$60,000 during the tax year, but her parents put all the money in a trust fund to pay for college. She lived with her parents all year. Doris meets the relationship, age, and residency tests. Doris also meets the support test since the \$60,000 in earnings were not used for her own support. She meets the tests for a qualifying child.

State benefits provided to a person in need, such as welfare, food stamps or housing, are generally considered support provided by state. A proposed rule on which taxpayers may choose to rely treats governmental payments made to a recipient that the recipient uses, in part, to support others are treated as support of the others provided by the recipient, whereas any part of such a payment used for the support of the recipient would constitute support of the recipient by a third party. For example, if a mother receives Temporary Assistance for Needy Families (TANF) and uses TANF payments to support her children, the proposed regulations treat the mother as having provided that support. If a child receives Social Security benefits, and uses them for the child's own support, the benefits are considered to be provided by the child.

Can the child be a qualifying child of more than one person?

Although a child could meet the conditions to be the qualifying child of more than one person, only one taxpayer can claim the child as a qualifying child for the following tax benefits (exception: if the special rule for children of divorced or separated parents or parents who live apart applies):

- Dependent
- Child tax credit

- Head of Household filing status
- Credit for child and dependent care expenses
- Exclusion from income for dependent care benefits
- Earned income credit
- Premium tax credit, generally

See the Volunteer Resource Guide, Tab C, Dependents, Qualifying Child of More Than One Person chart.

If two taxpayers have the same qualifying child, then only one taxpayer can claim all of the benefits for that particular qualifying child. They cannot agree to split these benefits. The other taxpayer cannot claim any of the benefits, based on the same qualifying child.

To determine which taxpayer can treat the child as a qualifying child and claim the benefits, apply these rules:

- If only one of the taxpayers is the child's parent, the child is the qualifying child of the parent.
- If the parents file a joint return together and can claim the child as a qualifying child, the child is treated as the qualifying child of the parents.
- If the parents do not file a joint return together but both parents claim the child, IRS will treat the child as the qualifying child of the parent with whom the child lived for the longer period of time during the tax year. If the child lived with both parents the same amount of time, IRS will treat the child as the qualifying child of the parent who had the higher Adjusted Gross Income (AGI) for the tax year.
- If no parent can claim the child as a qualifying child, the child is treated as the qualifying child of the person who had the highest AGI for the tax year and who meets the requisite tests.
- If a parent can claim the child as a qualifying child but no parent does, the child is treated as the qualifying child of the person who had the highest AGI for the year, but only if that person's AGI is higher than the highest AGI of any of the child's parents who could claim the child. If the parents file a joint return together, this rule allows the parents to divide their combined AGI equally (between themselves).

Using these tie-breaker rules, taxpayers may be able to choose which one claims the child. If the qualifying child is claimed on more than one tax return in a given year, IRS will apply these tie-breaker rules to determine who will receive the benefits.



CAUTION When a taxpayer's e-filed return is rejected because he or she claimed a dependent that was already claimed by another person, apply the tie-breaker rules. If the taxpayer is the person eligible to claim the dependent based on these rules, a paper return must be filed.

example

Lynne and her mother, Margaret, share a home and both contribute to the household expenses. Lynne's twelve-year-old-daughter, Karen, lives with them. Although Karen meets all the conditions to be a qualifying child for both Lynne and her mother, Karen is considered Lynne's dependent.

However, if Lynne chooses not to claim Karen, then Margaret may claim Karen as a qualifying child if Margaret's AGI is higher than Lynne's.

Publication 17 and Publication 501, Exemptions, Standard Deduction, and Filing Information, provide more information about qualifying children of more than one person.

What are the tests for qualifying relatives?

Dependents who do not meet the tests for qualifying child might meet the slightly different tests to be a qualifying relative. In addition to the dependent taxpayer, joint return, and citizen or resident tests, there are four additional tests that must be met for a person to be a qualifying relative. The tests are:

- Not a qualifying child test
- Member of household or relationship test
- Gross income test, and
- Support test

Unlike a qualifying child, a qualifying relative can be any age. Turn to the Volunteer Resource Guide, Tab C, Dependents, Qualifying Relative Dependents table, to follow along as the tests are described.

Not a Qualifying Child Test

A child is not considered a taxpayer's qualifying relative if the child is the taxpayer's qualifying *child* or is the qualifying child of *another* taxpayer.

However, there is an exception to this statement. A child may qualify as the taxpayer's dependent under the tests for qualifying relative, even if that child is the qualifying child of another taxpayer. This is allowed only when the child's parent (or other person for whom the child is a qualifying child) is not required to file an income tax return and either:

- Does not file a return, or
- Only files to get a refund of income tax withheld or estimated tax paid

example

Todd has lived with his girlfriend, Eva, and her two children all year in his home. Eva is not required to file, and does not file, a tax return this year. Eva and her two children pass the "not a qualifying child test" to be Todd's qualifying relatives. If Todd meets all other tests, Eva and her two children are qualifying relatives. (Eva and Todd's relationship does not violate local laws.)



EXERCISES

Answers are after the lesson summary.

Question 1: All the facts are the same as in the previous example, except that Eva's gross income is \$25,000, and she is required to file a return. In this situation, are the children Todd's qualifying relatives? Yes No

example

Sally has been supporting her friend Ann and Ann's young son, Bobby. Ann and Bobby lived with Sally the entire year and meet all the tests to be Sally's qualifying relatives. Ann worked part-time and made \$3,100 in wages. Ann files a return only to have her withholding refunded. Sally can claim Ann and Bobby as dependents.

Member of Household or Relationship Test

To meet this test, the person must either:

- Live as a member of the taxpayer's household all year, or
- Be related to the taxpayer in one of the following ways:

- Child, stepchild, foster child or a descendant of any of them
- Brother, sister, half-brother, half-sister, stepbrother or stepsister
- Father, mother, grandparent or other direct ancestor, but not foster parent
- Stepfather or stepmother
- Son or daughter of the taxpayer’s brother or sister (nephew or niece)
- Son or daughter of the taxpayer’s half-brother or half-sister
- Brother or sister of the taxpayer’s father or mother (uncle or aunt)
- Son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law

Any of these relationships that were established by marriage are not ended by death or divorce.

example

Susan and Ted are married and file a joint return. They supported Ted’s parents throughout the tax year. Even though Ted’s parents do not live with Ted and Susan, Ted’s parents meet the member of household or relationship test.

An unrelated person who lived with the taxpayer for the entire year can also meet the member of household or relationship test. If the relationship violates local laws, this test is not met. For example, if the taxpayer’s state prohibits cohabitation, then that person cannot be claimed, even if all other criteria are met.

Note that:

- A person is still considered living with the taxpayer as a member of the household during periods when that person or the taxpayer is temporarily absent due to special circumstances such as illness, education, business, vacation, military service, and placement in a nursing home.
- Cousins can meet the relationship test for qualifying relative *only if* they live with the taxpayer for the entire year.
- Qualifying relatives can be unrelated, as long as they lived with the taxpayer all year.
- A taxpayer may not claim a housekeeper or other household employee as a dependent.

example

Mary is a live-in nanny for Jack and Jane in exchange for room and board for the entire year. Mary does not meet the test for qualifying relative.

Gross Income Test

To meet this test, the dependent’s gross income for the tax year must be less than the threshold amount. Refer to the Volunteer Resource Guide for the current year threshold amount. Gross income is all income in the form of money, property, and services that is not exempt from tax. Specific examples are found in Publication 17. Remember this test does not apply to qualifying children, only qualifying relatives. For purposes of this test, the gross income of an individual who is permanently and totally disabled does not include income from a sheltered workshop.

example

Joe is 65 years old and lives with his son and daughter-in-law. Joe’s taxable pension income for the year was \$10,000. Joe is not a qualified relative because his income exceeds the threshold amount.

Support Test

To meet this test, the taxpayer must have provided more than 50% of the person's total support for the tax year. Note that this support test is different from the one for a qualifying child.

When calculating the amount of total support, taxpayers should compare their contributions with the entire amount of support the person received from all sources (such as taxable income, tax-exempt income, and loans). Review the list of valid support expenses and the Worksheet for Determining Support in the Volunteer Resource Guide, Tab C, Dependents, or in Publication 17.

example

Sherrie's father received \$2,700 from Social Security, but he put \$300 of it in a savings account and spent only \$2,400 for his own support. Sherrie spent \$2,600 of her income for his support, so she has provided over half of his support.

example

Steve provided \$4,000 toward his mother's support during the year. His mother had nontaxable Social Security benefit payments of \$4,800 and tax-exempt interest of \$800. She used all of these for her support. Steve's mother provided more than half of her total support of \$9,600. Therefore, Steve cannot claim his mother as a dependent.



State benefit payments like welfare, Temporary Assistance for Needy Families (TANF), food stamps, or housing assistance are generally considered support provided by the state, not by the taxpayer. A proposed rule on which taxpayers may choose to rely treats governmental payments made to a recipient that the recipient uses, in part, to support others as support of the others provided by the recipient, whereas any part of such payment used for the support of the recipient would constitute support of the recipient by a third party. For example, if a mother receives TANF and uses the TANF payments to support her children, the proposed regulations treat the mother as having provided that support.

Social Security benefits received by a child and used toward support are considered to have been provided by the child.

Refer to the Worksheet for Determining Support in the Volunteer Resource Guide or the Personal Exemptions and Dependents chapter of Publication 17.

Multiple Support Agreements (Form 2120)

Sometimes no one provided more than half the support of a person. Multiple support means that two or more people who could claim the person as a dependent (except for the support test) together provide more than half the dependent's support. In this situation, the individuals who provide more than 10% of the person's total support, and who meet the other tests for a qualifying relative, can agree that one of them will claim the person as a dependent for any applicable tax benefits.

- The taxpayer claiming the dependent must file Form 2120, Multiple Support Declaration or similar statement, with the tax return.
- The other taxpayers providing over 10% of the person's support must provide a written and signed statement agreeing *not* to claim the dependent for that year. The person who claims the dependent must keep a copy of this written statement as a record. A list of the statement requirements can be found in Form 2120 Instructions.



Multiple Support Agreements apply only to a qualifying relative, not to a qualifying child.

example

Fred's father, Charlie, lives with him and receives 27% of his support from Social Security, 40% from Fred, 24% from Charlie's brother Ray, and 9% from one of Charlie's friends. Charlie may be a qualifying relative for either Fred or Ray because they each provided more than 10% of Charlie's support, and together contributed more than 50% toward his support. If they agree that Fred will claim Charlie as a dependent, Ray will sign Form 2120 and Fred will attach the form to his tax return.



EXERCISES (continued)

Question 2: Diane and her brother each provided 20% of their grandmother's support for the year. Two persons who are not related to Diane's grandmother, and who do not live with her, provided the remaining 60% of her support equally. Who is entitled to claim the grandmother as a dependent?



The taxpayers who provide multiple support for a dependent decide among themselves who will claim the dependent for the year. Volunteer tax preparers do not decide.

Special Rule for Children of Divorced or Separated Parents or Parents Who Live Apart

In most cases, the child is the qualifying child of the custodial parent. However, a child will be treated as the qualifying child or qualifying relative of his or her noncustodial parent if all the following conditions apply:



This rule does not apply for Head of Household filing status, the credit for child and dependent care expenses, or the earned income credit. For these benefits, the child must meet the residency test. The custodial parent may still qualify for these provisions even though the noncustodial parent can claim the dependent for other tax benefits.

1. The parents
 - are divorced or legally separated under divorce or separate maintenance decrees or written separation agreements, or
 - lived apart at all times during the last six months of the year whether or not they are or were married
2. The child received over half of his or her support for the year from the parents. (Multiple Support Agreement rules do not apply.)
3. The child was in the custody of one or both parents for more than half the year.
4. The custodial parent signs a written declaration (Form 8332 or a similar statement) that he or she will not claim the child as a dependent for the year and the noncustodial parent attaches this declaration to his or her return. If the decree or agreement went into effect after 1984 and before 2009, the noncustodial parent may be able to attach certain pages from the decree or agreement instead of Form 8332. For a pre-1985 decree or agreement, see Publication 17.

This special rule is the exception to:

- The residency test for qualifying child
- The support test for qualifying relative

Custodial and Noncustodial Parent

The custodial parent is the parent with whom the child lived for the greater number of nights during the year. The other parent is the noncustodial parent.

If the parents divorced or separated during the year and the child lived with both parents before the separation, the custodial parent is the one with whom the child lived for the greater number of nights during the rest of the year.

A child is treated as living with a parent for a night if the child sleeps:

- At that parent's home, whether or not the parent is present, or
- In the company of the parent, when the child does not sleep at a parent's home (for example, the parent and child are on vacation together).

example

Chloe has one child, Timmy, and is divorced. During the tax year, Timmy lived with Chloe 210 nights and with his father 155 nights. Chloe is the custodial parent because Timmy lived with her more nights during the year.

If the child lived with each parent for an equal number of nights during the year, the custodial parent is the parent with the higher adjusted gross income.



EXERCISES (continued)

Question 3: Ted is divorced and has a daughter who lived with him and his ex-spouse for an equal number of nights. Ted's adjusted gross income is \$45,000 and his ex-spouse's adjusted gross income is \$30,000. Who is considered the custodial parent?

If a child is emancipated under state law, the child is treated as not living with either parent.

example

When Troy turned age 18 in May, he became emancipated under the law of the state in which he lives. As a result, he is not considered in the custody of his parents for more than half of the year. The special rule for children of divorced or separated parents does not apply.

See more examples and additional information in Publication 17.

Revocation of Release of Claim to an Exemption

Custodial parents can revoke a release of claim to exemption they previously provided to the noncustodial parent on Form 8332 or a similar statement. The custodial parent must provide, or make a reasonable effort to provide, the noncustodial parent with written notice of the revocation in the calendar year prior to the tax year in which the revocation is to take effect. Part III of Form 8332 can be used for this purpose. Attach a copy of the revocation to the return for each tax year the child is claimed as a dependent as a result of the revocation.



Tax Software Hint: The tax software determines the taxpayer's dependents based on the Dependents/Qualifying Person information entered in the Basic Information section.

Be sure to complete and review all the family and dependent information on the taxpayer's intake and interview sheet before entering the data into the tax software.

For detailed instructions on entering a dependent's information, refer to the Volunteer Resource Guide, Tab B, Starting a Return and Filing Status.

Tax Law Application

Elaine Smith has one Form W-2 from her clerk job of 36 years, showing wages of \$37,000. She has been divorced from her husband for over 20 years. She pays all the costs of keeping up her home and is the main provider for her seven-year-old granddaughter, Lisa and her 30-year-old son, Todd. Lisa is Todd's niece. Both her son and granddaughter lived with Elaine all year. Her son worked part time and earned \$9,000. He is not disabled. She would like to file a tax return and claim her son and granddaughter as dependents.

How do I apply the dependency tests to Elaine's son?

Use the interview tips in the Volunteer Resource Guide to apply the test to Elaine's son.

How do I apply the dependency tests to Elaine's granddaughter?

Use the interview tips in the Volunteer Resource Guide to apply the test to Elaine's granddaughter. You will find that Lisa is a qualifying child of both Elaine and Todd. However, under the tie-breaker rules, Elaine is entitled to claim Lisa as a dependent because she has the higher AGI.

Dependent/Nondependent Determinations

Elaine can claim her granddaughter as a dependent, but cannot claim her adult son because he does not meet the gross income test to be Elaine's qualifying relative.

Summary

For a taxpayer to claim a dependent, the following conditions must be met:

- The taxpayer may not claim a dependent if the taxpayer may be claimed as a dependent on another taxpayer's return.
- A dependent cannot file a joint return unless the joint return is filed only to claim a refund and no tax liability would exist for either spouse on separate returns.
- A person cannot be claimed as a dependent unless that person is a U.S. citizen, U.S. resident alien, U.S. national, or a resident of Canada or Mexico, for some part of the year. (There is an exception for certain adopted children.)
- A dependent must be either a *qualifying child* or *qualifying relative*.



EXERCISE ANSWERS

Answer 1: No, since Eva has a filing requirement and her children meet the tests to be Eva’s qualifying children, Todd cannot claim the children as qualifying relatives.

Answer 2: No one is entitled to claim the grandmother as a dependent. The individuals that provided more than half of the grandmother’s support are not eligible to claim her because they are not related to her and did not live in the same household all year.

Answer 3: Ted is his daughter’s custodial parent because he had a higher adjusted gross income.

Notes
