Introduction

Identifying and entering the correct number of exemptions is a critical component of completing the taxpayer’s return. Taxpayers can claim one exemption for each qualified dependent on their return, thereby reducing their taxable income.

See the Volunteer Resource Guide, Exemptions/Dependency tab for interview tips that can provide 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 can claim an exemption for a dependent by applying the applicable dependency test

• Determine how many exemptions a taxpayer can claim for dependents

Who are dependents?

Dependents are either a qualifying child or a qualifying relative of the taxpayer. As explained in the Personal Exemptions lesson, the taxpayer’s spouse cannot be claimed as a dependent but can be claimed as a personal exemption. Some examples of dependents include a child, stepchild, brother, sister, or parent.

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, Exemptions/Dependency tab for guidance on asking probing questions to verify the information on the intake and interview sheet. Use the interview tips to apply the dependency tests. Avoid using information from the taxpayer’s prior year documents to complete this section.

Does it matter if I use the interview tips?

Whether you are a new or returning volunteer, the interview tips provide 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. 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 an Exemption for a Dependent chart instead.
How do I use the interview tips?

When determining if a taxpayer can claim a dependent, always begin with Table 1: Dependency Exemption. If you determine that the person is not a qualifying child, then move to Table 2: Dependency Exemption for Qualifying Relative. 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 the Qualifying Child of More Than One Person chart.

Who may be claimed as a dependent?

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.

What tests must be met for all dependents?

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 can be claimed as a dependent by someone else cannot 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 on their tax return?” If taxpayers answer yes, they cannot claim a dependent. Use your interview skills because some taxpayers, particularly students, may 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. They claimed two personal exemptions on their return. 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 or resident, 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.
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, Exemptions/Dependency tab, Table 1 Interview Tips.

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
- Any age if permanently and totally disabled at any time of the year

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, or detention in a juvenile facility.

A child who was born (or died) during the year is treated as having lived with the taxpayer all year, if the taxpayer’s home was the child’s home for the entire time he or she was alive.

Taxpayers may claim an exemption for a child who was born or died, or was kidnapped, during the year, as long as the other dependency tests are met.
A taxpayer may not claim a dependency exemption for a stillborn child.

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.

State benefits provided to a person in need, such as welfare, food stamps or housing, are considered support provided by the state. However, if a child receives Social Security benefits, and uses them toward their 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):

- Dependency exemption
- 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, 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.
- 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 actually 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.

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, Lynne is the taxpayer who can claim Karen as a qualifying child, because she is Karen’s parent.

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 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, Exemptions/Dependency tab, Qualifying Relative Interview Tips, 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. Todd can claim them as dependents if he meets all the other tests. (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, is Todd allowed to claim the children as qualifying relative dependents? □ 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. She does not claim her own exemption. Sally can claim Ann and Bobby as dependents.

**EXERCISES (continued)**

**Question 2:** All the facts are the same as in the previous example, except, when Ann files her tax return, she uses Bobby as her qualifying child to claim the earned income credit. Who is eligible to claim Bobby as a dependent?
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 dependency exemption for a housekeeper or other household employee.

example
Mary is a live-in nanny for Jack and Jane in exchange for room and board for the entire year. Even if Mary meets the other tests for qualifying relative, Jack and Jane may not claim Mary as a dependent.

Gross Income Test

To meet this test, the dependent’s gross income for the tax year must be less than the personal exemption 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, Personal Exemptions and Dependents. 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.
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, Exemptions/Dependency tab, and the Personal Exemptions and Dependents chapter in Publication 17.

Example

Sherrie’s father received $2,700 from Social Security and investments, 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.

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 take the person’s exemption.

• The taxpayer claiming the exemption for 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 exemption for that year. The person who claims the exemption must keep a copy of this written statement as a record. A list of the statement requirements can be found in Form 2120 Instructions.
**Dependency Exemptions**

**EXERCISES (continued)**

**Question 3:** 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 dependency exemption for the grandmother?

**TIP**

The taxpayers who provide multiple support for a dependent decide among themselves who will take the exemption 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:

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 were 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.

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*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. Either Fred or Ray can take the exemption for Charlie 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 should take the exemption, Ray will sign Form 2120 and Fred will attach the form to his tax return.
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).

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.

**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 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, Personal Exemptions and Dependents.

**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 dependency exemptions based on the Dependents/Qualifying Person information entered in the Basic Information section.

Be sure to include and verify 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, refer to the Volunteer Resource Guide, Exemptions/Dependency tab, Basic Information section.
**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 would be entitled to the dependency exemption for Lisa because she has the higher AGI.

**Dependent/Nondependent Determinations**

Elaine can claim her granddaughter as a dependency exemption, but not her adult son.

**Summary**

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

- Persons claiming a dependent cannot be claimed as a dependent on another person’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:** Neither can claim Bobby as a dependent. Because Bobby is considered Ann’s qualifying child for EIC, Sally cannot claim Bobby as a dependent under the rules for qualifying relative. Ann cannot claim Bobby as a dependent either, since Ann is Sally’s dependent.

**Answer 3:** No one is entitled to the dependency exemption, since more than half of the grandmother’s support is provided by people who cannot claim her exemption.

**Answer 4:** Ted is his daughter’s custodial parent because he had a higher adjusted gross income.