

Sample Chapter

IRS Enrolled Agent Exam Study Guide

Part 1: Individuals

May 1, 2017 to February 29, 2018 Testing

Tax Preparer Learning Systems, LLC

Introduction

This material is intended for general tax education purposes only. Refer to IRS publications for specific guidance when determining the tax obligation for any taxpayer. For advice concerning a specific taxpayer situation, consult a qualified tax professional.

Pursuant to the requirements of the Internal Revenue Service Circular 230, be advised that, to the extent any issue relating to a Federal tax issue is contained in this communication, it was not written or intended to be used for the purposes of (a) avoiding any tax related penalties that may be imposed on the organization or any other person under the Internal Revenue Code, or (b) promoting, marketing or recommending to another person any transaction or matter addressed in this communication.

Course Content

The course content is based primarily on IRS publications and information available on the IRS website. It has been edited for syntax and organizational purposes. Efforts have been made to adhere to the test specification outline, but the content does not strictly adhere to the outline for organizational reasons e.g. certain content fits better in other sections.

Exemptions

Personal Exemptions

Taxpayer's are generally allowed one exemption for themselves. If they are married, they may be allowed one exemption for their spouse. These are called personal exemptions.

Taxpayer's can take one exemption for themselves unless they can be claimed as a dependent by another taxpayer. If another taxpayer is entitled to claim them as a dependent, they cannot take an exemption for themselves even if the other taxpayer does not actually claim them as a dependent.

Spouse's Exemption

The taxpayer's spouse is never considered their dependent. On a joint return they can claim one exemption for themselves and one for their spouse.

If they file a separate return, they can claim an exemption for their spouse only if their spouse:

- Had no gross income,
- Is not filing a return, and
- Was not the dependent of another taxpayer.

This is true even if the other taxpayer does not actually claim their spouse as a dependent.

A taxpayer can claim an exemption for their spouse even if he or she is a nonresident alien. In that case, their spouse:

- Must have no gross income for U.S. tax purposes,
- Must not be filing a return, and
- Must not be the dependent of another taxpayer.

If the taxpayer's spouse died during the year and they file a joint return for themselves and their deceased spouse, they generally can claim their spouse's exemption. If they file a separate return for the year, they may be able to claim their spouse's exemption. If they remarried during the year, they cannot take an exemption for their deceased spouse. If they are a surviving spouse without gross income and they remarry in the year their spouse died, they can be claimed as an exemption on both the final separate return of their deceased spouse and the separate return of their new spouse for that year. If they file a joint return with their new spouse, they can be claimed as an exemption only on that return.

If the taxpayer obtained a final decree of divorce or separate maintenance during the year, they cannot take their former spouse's exemption. This rule applies even if they provided all of their former spouse's support.

Exemptions for Dependents

A taxpayer is allowed one exemption for each person they can claim as a dependent. They can claim an exemption for a dependent even if their dependent files a return.

The term "dependent" means:

- A qualifying child, or a qualifying relative.

Overview of the Rules for Claiming an Exemption for a Dependent

- Dependents cannot claim any dependents if they (or their spouse, if filing jointly) could be claimed as a dependent by another taxpayer.
- They cannot claim a married person who files a joint return as a dependent unless that joint return is filed only to claim a refund of withheld income tax or estimated tax paid.
- They cannot claim a person 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.¹
- They cannot claim a person as a dependent unless that person is their **qualifying child** or **qualifying relative**.

| Tests To Be a Qualifying Child | Tests To Be a Qualifying Relative |
|---|---|
| <ol style="list-style-type: none"> 1. The child must be their son, daughter, stepchild, foster child, brother, sister, half-brother, half-sister, stepbrother, stepsister, or a descendant of any of them. 2. The child must be (a) under age 19 at the end of the year and younger than they (or their spouse, if filing jointly), (b) under age 24 at the end of the year, a student, and younger than they (or their spouse, if filing jointly), or (c) any age if permanently and totally disabled. 3. The child must have lived with them for more than half of the year.² 4. The child must not have provided more than half of his or her own support for the year. 5. The child must not be filing a joint return for the year (unless that return is filed only to get a refund of income tax withheld or estimated tax paid). <p>If the child meets the rules to be a qualifying child of more than one person, only one person can actually treat the child as a qualifying child.</p> | <ol style="list-style-type: none"> 1. The person cannot be their qualifying child or the qualifying child of any other taxpayer. 2. The person either (a) must be related, or (b) must live with them all year as a member of their household² (and their relationship must not violate local law). 3. The person's gross income for the year must be less than \$3,950.³ 4. They must provide more than half of the person's total support for the year.⁴ |

¹There is an exception for certain adopted children.

²There are exceptions for temporary absences, children who were born or died during the year, children of divorced or separated parents (or parents who live apart), and kidnapped children.

³There is an exception if the person is disabled and has income from a sheltered workshop.

⁴There are exceptions for multiple support agreements, children of divorced or separated parents (or parents who live apart), and kidnapped children.

In addition to the requirements shown in the table on the previous page, a taxpayer can claim a dependent exemption for anyone if the following three tests are also met.

1. Dependent taxpayer test.
2. Joint return test.
3. Citizen or resident test.

Dependent Taxpayer Test

If the taxpayer can be claimed as a dependent by another person, they cannot claim anyone else as a dependent. Even if they have a qualifying child or qualifying relative, they cannot claim that person as a dependent.

If the taxpayer are filing a joint return and their spouse can be claimed as a dependent by someone else, they and their spouse cannot claim any dependents on their joint return.

Joint Return Test

Taxpayers generally cannot claim a married person as a dependent if he or she files a joint return.

Taxpayers can claim an exemption for a person who files a joint return if that person and his or her spouse file the joint return only to claim a refund of income tax withheld or estimated tax paid.

Example 1—child files joint return.

You supported their 18-year-old daughter, and she lived with you all year while her husband was in the Armed Forces. He earned \$25,000 for the year. The couple files a joint return. You cannot take an exemption for their daughter.

Example 2—child files joint return only as claim for refund of withheld tax.

Your 18-year-old son and his 17-year-old wife had \$800 of wages from part-time jobs and no other income. Neither is required to file a tax return. They do not have a child. Taxes were taken out of their pay so they filed a joint return only to get a refund of the withheld taxes. The exception to the joint return test applies, so you are not disqualified from claiming an exemption for each of them just because they file a joint return. You can claim exemptions for each of them if all the other tests to do so are met.

Example 3—child files joint returns to claim American opportunity credit.

The facts are the same as in Example 2 except no taxes were taken out of your son's pay or his wife's pay. However, they file a joint return to claim an American opportunity credit of \$124 and get a refund of that amount. Because claiming the American opportunity credit is their reason for filing the return, they are not filing it only to get a refund of income tax withheld or estimated tax paid. The exception to the joint return test does not apply, so taxpayers cannot claim an exemption for either of them.

Citizen or Resident Test

Taxpayers generally cannot claim a person 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. However, there is an exception for certain adopted children, as explained next.

If a U.S. citizen or U.S. national has legally adopted a child who is not a U.S. citizen, U.S. resident alien, or U.S. national, this test is met if the child lived with them as a member of their household all year. This exception also applies if the child was lawfully placed with them for legal adoption.

Children usually are citizens or residents of the country of their parents. If the taxpayer was a U.S. citizen when their child was born, the child may be a U.S. citizen and meet this test even if the other parent was a nonresident alien and the child was born in a foreign country.

Foreign students brought to this country under a qualified international education exchange program and placed in American homes for a temporary period generally are not U.S. residents and do not meet this test. The taxpayer cannot claim an exemption for them. However, if they provided a home for a foreign student, they may be able to take a charitable contribution deduction.

A U.S. national is an individual who, although not a U.S. citizen, owes his or her allegiance to the United States. U.S. nationals include American Samoans and Northern Mariana Islanders who chose to become U.S. nationals instead of U.S. citizens.

Qualifying Child

Five tests must be met for a child to be a qualifying child. The five tests are:

1. Relationship,
2. Age,
3. Residency,
4. Support, and
5. Joint return.

If a child meets the five tests to be the qualifying child of more than one person, a special rule applies to determine which person can actually treat the child as a qualifying child.

Relationship Test

To meet this test, a child must be:

- The taxpayer's son, daughter, stepchild, foster child, or a descendant (for example, their grandchild) of any of them, or
- The taxpayer's brother, sister, half-brother, half-sister, stepbrother, stepsister, or a descendant (for example, their niece or nephew) of any of them.

An adopted child is always treated as their own child. The term "adopted child" includes a child who was lawfully placed with them for legal adoption.

A foster child is an individual who is placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

Age Test

To meet this test, a child must be:

- Under age 19 at the end of the year and younger than the taxpayer (or their spouse, if filing jointly),
- A student under age 24 at the end of the year and younger than the taxpayer (or their spouse, if filing jointly), or
- Permanently and totally disabled at any time during the year, regardless of age.

Example

Your son turned 19 on December 10. Unless he was permanently and totally disabled or a student, he does not meet the age test because, at the end of the year, he was not **under** age 19.

To be a qualifying child, a child who is not permanently and totally disabled must be younger than the taxpayer. However, if the taxpayer is married filing jointly, the child must be younger than the taxpayer or their spouse but does not have to be younger than both the taxpayer and spouse.

Example 1—child not younger than you or spouse

Your 23-year-old brother, who is a student and unmarried, lives with you and your spouse. He is not disabled. Both you and your spouse are 21 years old, and you file a joint return. Your brother is not your qualifying child because he is not younger than you or your spouse.

Example 2—child younger than your spouse but not younger than you

The facts are the same as in Example 1 except your spouse is 25 years old. Because your brother is younger than your spouse, and you and your spouse are filing a joint return, your brother is your qualifying child, even though he is not younger than you.

To qualify as a student, the child must be, during some part of each of any 5 calendar months of the year:

1. A full-time student at a school that has a regular teaching staff, course of study, and a regularly enrolled student body at the school, or
2. A student taking a full-time, on-farm training course given by a school described in (1), or by a state, county, or local government agency.

The 5 calendar months do not have to be consecutive.

A full-time student is a student who is enrolled for the number of hours or courses the school considers to be full-time attendance.

A school can be an elementary school, junior or senior high school, college, university, or technical, trade, or mechanical school. However, an on-the-job training course, correspondence school, or school offering courses only through the Internet does not count as a school.

Students who work on “co-op” jobs in private industry as a part of a school's regular course of classroom and practical training are considered full-time students.

The child is permanently and totally disabled if both of the following apply.

- He or she cannot engage in any substantial gainful activity because of a physical or mental condition.
- A doctor determines the condition has lasted or can be expected to last continuously for at least a year or can lead to death.

Residency Test

To meet this test, the child must have lived with the taxpayer for more than half the year. There are exceptions for temporary absences, children who were born or died during the year, kidnapped children, and children of divorced or separated parents.

The child is considered to have lived with the taxpayer during periods of time when one of them, or both, are temporarily absent due to special circumstances such as:

- Illness,
- Education,
- Business,
- Vacation, or
- Military service.

A child who was born or died during the year is treated as having lived with the taxpayer more than half of the year if the taxpayer's home was the child's home more than half of the time he or she was alive during the year. The same is true if the child lived with the taxpayer more than half the year except for any required hospital stay following birth.

A taxpayer may be able to claim an exemption for a child born alive during the year, even if the child lived only for a moment. State or local law must treat the child as having been born alive. There must be proof of a live birth shown by an official document, such as a birth certificate. The child must be their qualifying child or qualifying relative, and all the other tests to claim an exemption for a dependent must be met.

A taxpayer cannot claim an exemption for a stillborn child.

Children of divorced or separated parents (or parents who live apart)

In most cases, because of the residency test, a child of divorced or separated parents is the qualifying child of the custodial parent. However, the child will be treated as the qualifying child of the noncustodial parent if all four of the following statements are true.

1. The parents:
 - a. Are divorced or legally separated under a decree of divorce or separate maintenance,
 - b. Are separated under a written separation agreement, or
 - c. Lived apart at all times during the last 6 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.
3. The child is in the custody of one or both parents for more than half of the year.
4. Either of the following statements is true.
 - a. The custodial parent signs a written declaration, that he or she will not claim the child as a dependent for the year, and the noncustodial parent attaches this written declaration to his or her return.
 - b. A pre-1985 decree of divorce or separate maintenance or written separation agreement that applies to 2016 states that the noncustodial parent can claim the child as a dependent, the decree or agreement was not changed after 1984 to say the noncustodial parent cannot claim the child as a dependent, and the noncustodial parent provides at least \$600 for the child's support during the year.

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).

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 (AGI).

The night of December 31 is treated as part of the year in which it begins. For example, December 31, 2016, is treated as part of 2016.

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

If a child was not with either parent on a particular night (because, for example, the child was staying at a friend's house), the child is treated as living with the parent with whom the child normally would have lived for that night, except for the absence. But if it cannot be determined with which parent the child normally would have lived or if the child would not have lived with either parent that night, the child is treated as not living with either parent that night.

If, due to a parent's nighttime work schedule, a child lives for a greater number of days, but not nights, with the parent who works at night, that parent is treated as the custodial parent. On a school day, the child is treated as living at the primary residence registered with the school.

Example 1—child lived with one parent for a greater number of nights.

You and their child's other parent are divorced. In 2016, the child lived with you 210 nights and with the other parent 155 nights. You are the custodial parent.

Example 2—child is away at camp.

In 2016, your daughter lives with each parent for alternate weeks. In the summer, she spends 6 weeks at summer camp. During the time she is at camp, she is treated as living with you for 3 weeks and with her other parent, your ex-spouse, for 3 weeks because this is how long she would have lived with each parent if she had not attended summer camp.

Example 3—child lived same number of nights with each parent.

Your son lived with you 180 nights during the year and lived the same number of nights with his other parent, your ex-spouse. Your AGI is \$40,000. Your ex-spouse's AGI is \$25,000. You are treated as your son's custodial parent because you have the higher AGI.

Example 4—child is at parent's home but with other parent.

Your son normally lives with you during the week and with his other parent, your ex-spouse, every other weekend. You become ill and are hospitalized. The other parent lives in your home with your son for 10 consecutive days while you are in the hospital. Your son is treated as living with you during this 10-day period because he was living in your home.

Example 5—child emancipated in May.

When your son turned age 18 in May 2016, he became emancipated under the law of the state where 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.

Example 6—child emancipated in August.

Your daughter lives with you from January 1, 2016, until May 31, 2016, and lives with her other parent, your ex-spouse, from June 1, 2016, through the end of the year. She turns 18 and is emancipated under state law on August 1, 2016. Because she is treated as not living with either parent beginning on August 1, she is treated as living with you the greater number of nights in 2016. You are the custodial parent.

Written declaration The custodial parent must use either Form 8332 or a similar statement (containing the same information required by the form) to make the written declaration to release the exemption to the noncustodial parent. The noncustodial parent must attach a copy of the form or statement to his or her tax return.

The exemption can be released for 1 year, for a number of specified years (for example, alternate years), or for all future years, as specified in the declaration.

Post-1984 and pre-2009 divorce decree or separation agreement. If the divorce decree or separation 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. The decree or agreement must state all three of the following.

1. The noncustodial parent can claim the child as a dependent without regard to any condition, such as payment of support.
2. The custodial parent will not claim the child as a dependent for the year.
3. The years for which the noncustodial parent, rather than the custodial parent, can claim the child as a dependent.

The noncustodial parent must attach all of the following pages of the decree or agreement to his or her tax return.

- The cover page (write the other parent's social security number on this page).
- The pages that include all of the information identified in items (1) through (3) above.
- The signature page with the other parent's signature and the date of the agreement.

The noncustodial parent cannot attach pages from the decree or agreement instead of Form 8332 if the decree or agreement went into effect after 2008. The custodial parent must sign either Form 8332 or a similar statement whose only purpose is to release the custodial parent's claim to an exemption for a child, and the noncustodial parent must attach a copy to his or her return. The form or statement must release the custodial parent's claim to the child without any conditions. For example, the release must not depend on the noncustodial parent paying support.

The noncustodial parent must attach the required information even if it was filed with a return in an earlier year.

The custodial parent can revoke a release of claim to exemption. For the revocation to be effective for 2016, the custodial parent must have given (or made reasonable efforts to give) written notice of the revocation to the noncustodial parent in 2015 or earlier. The custodial parent can use Part III of Form 8332 for this purpose and must attach a copy of the revocation to his or her return for each tax year he or she claims the child as a dependent as a result of the revocation.

If the taxpayer remarries, the support provided by the new spouse is treated as provided by the taxpayer.

This special rule for divorced or separated parents also applies to parents who never married, and who lived apart at all times during the last 6 months of the year.

Support Test (To Be a Qualifying Child)

To meet this test, the child cannot have provided more than half of his or her own support for the year. This test is different from the support test to be a qualifying relative.

Example

You provided \$4,000 toward your 16-year-old son's support for the year. He has a part-time job and provided \$6,000 to his own support. He provided more than half of his own support for the year. He is not your qualifying child.

A scholarship received by a child who is a student is not taken into account in determining whether the child provided more than half of his or her own support.

Joint Return Test (To Be a Qualifying Child)

To meet this test, the child cannot file a joint return for the year. An exception to the joint return test applies if the child and his or her spouse file a joint return only to claim a refund of income tax withheld or estimated tax paid.

Example 1—child files joint return.

You supported your 18-year-old daughter, and she lived with you all year while her husband was in the Armed Forces. He earned \$25,000 for the year. The couple files a joint return. Because your daughter and her husband file a joint return, she is not your qualifying child.

Example 2—child files joint return only as a claim for refund of withheld tax.

Your 18-year-old son and his 17-year-old wife had \$800 of wages from part-time jobs and no other income. Neither is required to file a tax return. They do not have a child. Taxes were taken out of their pay so they filed a joint return only to get a refund of the withheld taxes. The exception to the joint return test applies, so your son may be your qualifying child if all the other tests are met.

Example 3—child files joint returns to claim American opportunity credit.

The facts are the same as in Example 2 except no taxes were taken out of your son's pay or his wife's pay. However, they file a joint return to claim an American opportunity credit of \$124 and get a refund of that amount. Because claiming the American opportunity credit is their reason for filing the return, they are not filing it only to get a refund of income tax withheld or estimated tax paid. The exception to the joint return test does not apply, so your son is not your qualifying child.

Special Rule for Qualifying Child of More Than One Person

If the qualifying child is not a qualifying child of anyone else, this special rule does not apply to them and they do not need to read about it. This is also true if the qualifying child is not a qualifying child of anyone else except the taxpayer's spouse with whom they file a joint return.

If a child is treated as the qualifying child of the noncustodial parent under the rules for children of divorced or separated parents (or parents who live apart) only the noncustodial parent can claim an exemption and the child tax credit for the child. However, the custodial parent, if eligible, or another eligible taxpayer can claim the child as a qualifying child for the EIC and other tax benefits listed earlier in this chapter. If the child is the qualifying child of more than one person for these benefits, then the tiebreaker rules determine which person can treat the child as a qualifying child..

Sometimes, a child meets the relationship, age, residency, support, and joint return tests to be a qualifying child of more than one person. Although the child is a qualifying child of each of these persons, only one person can actually treat the child as a qualifying child to take all of the following tax benefits (provided the person is eligible for each benefit).

1. The exemption for the child.
2. The child tax credit.
3. Head of household filing status.
4. The credit for child and dependent care expenses.
5. The exclusion from income for dependent care benefits.
6. The earned income credit.

The other person cannot take any of these benefits based on this qualifying child. In other words, the taxpayer and the other person cannot agree to divide these benefits. The other person cannot take any of these tax benefits for a child unless he or she has a different qualifying child.

To determine which person can treat the child as a qualifying child to claim these six tax benefits, the following tiebreaker rules apply.

- If only one of the persons is the child's parent, the child is treated as 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 as a qualifying child, the 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 year. If the child lived with each parent for the same amount of time, the IRS will treat the child as the qualifying child of the parent who had the higher adjusted gross income (AGI) for the 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 year.
- If a parent can claim the child as a qualifying child but no parent does so claim the child, 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 can claim the child. If the child's parents file a joint return with each other, this rule can be applied by dividing the parents' combined AGI equally between the parents.

Example 1—child lived with parent and grandparent.

You and your 3-year-old daughter Jane lived with your mother all year. You are 25 years old, unmarried, and your AGI is \$9,000. Your mother's AGI is \$15,000. Jane's father did not live with you or your daughter. You have not signed Form 8332 (or a similar statement) to release the child's exemption to the noncustodial parent.

Jane is a qualifying child of both you and your mother because she meets the relationship, age, residency, support, and joint return tests for both you and your mother. However, only one of you can

claim her. Jane is not a qualifying child of anyone else, including her father. You agree to let your mother claim Jane. This means your mother can claim Jane as a qualifying child for all of the six tax benefits listed earlier, if she qualifies for each of those benefits (and if you do not claim Jane as a qualifying child for any of those tax benefits).

Example 2—parent has higher AGI than grandparent.

The facts are the same as in *Example 1* except your AGI is \$18,000. Because your mother's AGI is not higher than yours, she cannot claim Jane. Only you can claim Jane.

Example 3—two persons claim same child.

The facts are the same as in *Example 1* except that you and your mother both claim Jane as a qualifying child. In this case, you, as the child's parent, will be the only one allowed to claim Jane as a qualifying child. The IRS will disallow your mother's claim to the six tax benefits listed earlier unless she has another qualifying child.

Example 4—qualifying children split between two persons.

The facts are the same as in *Example 1* except you also have two other young children who are qualifying children of both you and your mother. Only one of you can claim each child. However, if your mother's AGI is higher than yours, you can allow your mother to claim one or more of the children. For example, if you claim one child, your mother can claim the other two.

Example 5—taxpayer who is a qualifying child

The facts are the same as in *Example 1* except you are only 18 years old and did not provide more than half of your own support for the year. This means you are your mother's qualifying child. If she can claim you as a dependent, then you cannot claim your daughter as a dependent because of the Dependent Taxpayer Test explained earlier.

Example 6—child lived with both parents and grandparent.

The facts are the same as in *Example 1* except you are married to your daughter's father. The two of you live together with your daughter and your mother, and have an AGI of \$20,000 on a joint return. If you and your husband do not claim your daughter as a qualifying child, your mother can claim her instead. Even though the AGI on your joint return, \$20,000, is more than your mother's AGI of \$15,000, for this purpose each parent's AGI can be treated as \$10,000, so your mother's \$15,000 AGI is treated as higher than the highest AGI of any of the child's parents who can claim the child.

Example 7—separated parents.

You, your husband, and your 10-year-old son lived together until August 1, 2016, when your husband moved out of the household. In August and September, your son lived with you. For the rest of the year, your son lived with your husband, the boy's father. Your son is a qualifying child of both you and your husband because your son lived with each of you for more than half the year and because he met the

relationship, age, support, and joint return tests for both of you. At the end of the year, you and your husband still were not divorced, legally separated, or separated under a written separation agreement, so the rule for children of divorced or separated parents (or parents who live apart) does not apply.

You and your husband will file separate returns. Your husband agrees to let you treat your son as a qualifying child. This means, if your husband does not claim your son as a qualifying child, you can claim your son as a qualifying child for the dependency exemption, child tax credit, and exclusion for dependent care benefits (if you qualify for each of those tax benefits). However, you cannot claim head of household filing status because you and your husband did not live apart for the last 6 months of the year. As a result, your filing status is married filing separately, so you cannot claim the earned income credit or the credit for child and dependent care expenses.

Example 8—separated parents claim same child.

The facts are the same as in *Example 7* except that you and your husband both claim your son as a qualifying child. In this case, only your husband will be allowed to treat your son as a qualifying child. This is because, during 2016, the boy lived with him longer than with you. If you claimed an exemption or the child tax credit for your son, the IRS will disallow your claim to both these tax benefits. If you do not have another qualifying child or dependent, the IRS will also disallow your claim to the exclusion for dependent care benefits. In addition, because you and your husband did not live apart for the last 6 months of the year, your husband cannot claim head of household filing status. As a result, his filing status is married filing separately, so he cannot claim the earned income credit or the credit for child and dependent care expenses.

Example 9—unmarried parents

You, your 5-year-old son, and your son's father lived together all year. You and your son's father are not married. Your son is a qualifying child of both you and his father because he meets the relationship, age, residency, support, and joint return tests for both you and his father. Your AGI is \$12,000 and your son's father's AGI is \$14,000. Your son's father agrees to let you claim the child as a qualifying child. This means you can claim him as a qualifying child for the dependency exemption, child tax credit, head of household filing status, credit for child and dependent care expenses, exclusion for dependent care benefits, and the earned income credit, if you qualify for each of those tax benefits (and if your son's father does not, in fact, claim your son as a qualifying child for any of those tax benefits).

Example 10—unmarried parents claim same child.

The facts are the same as in *Example 9* except that you and your son's father both claim your son as a qualifying child. In this case, only your son's father will be allowed to treat your son as a qualifying child. This is because his AGI, \$14,000, is more than your AGI, \$12,000. If you claimed an exemption or the child tax credit for your son, the IRS will disallow your claim to both these tax benefits. If you do not have another qualifying child or dependent, the IRS will also disallow your claim to the earned income credit, head of household filing status, the credit for child and dependent care expenses, and the exclusion for dependent care benefits.

Example 11—child did not live with a parent.

You and your 7-year-old niece, your sister's child, lived with your mother all year. You are 25 years old, and your AGI is \$9,300. Your mother's AGI is \$15,000. Your niece's parents file jointly, have an AGI of less than \$9,000, and do not live with you or their child. Your niece is a qualifying child of both you and your mother because she meets the relationship, age, residency, support, and joint return tests for both you and your mother. However, only your mother can treat her as a qualifying child. This is because your mother's AGI, \$15,000, is more than your AGI, \$9,300.

Qualifying Relative

Four tests must be met for a person to be a taxpayer's qualifying relative. The four tests are:

1. Not a qualifying child test,
2. Member of household or relationship test,
3. Gross income test, and
4. Support test.

Unlike a qualifying child, a qualifying relative can be any age. There is no age test for a qualifying relative.

Not a Qualifying Child Test

A child is not a qualifying relative if the child is the taxpayer's qualifying child or the qualifying child of any other taxpayer.

Example 1

The taxpayer's 22-year-old daughter, who is a student, lives with the taxpayer and meets all the tests to be the taxpayer qualifying child. She is not the taxpayer's qualifying relative.

Example 2

The taxpayer's 2-year-old son lives with the taxpayer parents and meets all the tests to be their qualifying child. He is not the taxpayer's qualifying relative.

Example 3

The taxpayer's son lives with you but is not your qualifying child because he is 30 years old and does not meet the age test. He may be your qualifying relative if the gross income test and the support test are met.

Example 4

Your 13-year-old grandson lived with his mother for 3 months, with his uncle for 4 months, and with you for 5 months during the year. He is not your qualifying child because he does not meet the residency test. He may be your qualifying relative if the gross income test and the support test are met.

Child of person not required to file a return

A child is not the qualifying child of any other taxpayer and so may qualify as a qualifying relative if the child's parent (or other person for whom the child is defined as a qualifying child) is not required to file an income tax return and either:

- Does not file an income tax return, or
- Files a return only to get a refund of income tax withheld or estimated tax paid.

Example 1—return not required.

You support an unrelated friend and her 3-year-old child, who lived with you all year in your home. Your friend has no gross income, is not required to file a 2016 tax return, and does not file a 2016 tax return. Both your friend and her child are your qualifying relatives if the support test is met.

Example 2—return filed to claim refund.

The facts are the same as in *Example 1* except your friend had wages of \$1,500 during the year and had income tax withheld from her wages. She files a return only to get a refund of the income tax withheld and does not claim the earned income credit or any other tax credits or deductions. Both your friend and her child are your qualifying relatives if the support test is met.

Example 3—earned income credit claimed.

The facts are the same as in *Example 2* except your friend had wages of \$8,000 during the year and claimed the earned income credit on her return. Your friend's child is the qualifying child of another taxpayer (your friend), so you cannot claim your friend's child as your qualifying relative.

Example

You provide all the support of your children, ages 6, 8, and 12, who live in Mexico with your mother and have no income. You are single and live in the United States. Your mother is not a U.S. citizen and has no U.S. income, so she is not a “taxpayer.” Your children are not your qualifying children because they do not meet the residency test. But since they are not the qualifying children of any other taxpayer, they are your qualifying relatives and you can claim them as dependents. You may also be able to claim your mother as a dependent if the gross income and support tests are met.

Member of Household or Relationship Test

To meet this test, a person must either:

1. Live with the taxpayer all year as a member of the household, or
2. Be related to the taxpayer in one of the ways listed under Relatives who do not have to live with the taxpayer.

If at any time during the year the person was the taxpayer's spouse, that person cannot be a qualifying relative.

A person related to the taxpayer in any of the following ways does not have to live with the taxpayer all year as a member of the household to meet this test.

- The taxpayer's child, stepchild, foster child, or a descendant of any of them (for example, a grandchild). (A legally adopted child is considered the taxpayer's child.)
- A brother, sister, half-brother, half-sister, stepbrother, or stepsister.
- A father, mother, grandparent, or other direct ancestor, but not foster parent.
- A stepfather or stepmother.
- A son or daughter of the taxpayer's brother or sister.
- A son or daughter of the taxpayer's half-brother or half-sister.
- A brother or sister of the taxpayer's father or mother.
- The taxpayer's 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

You and your wife began supporting your wife's father, a widower, in 2008. Your wife died in 2015. Despite your wife's death, your father-in-law continues to meet this test, even if he does not live with you. You can claim him as a dependent if all other tests are met, including the gross income test and support test.

A foster child is an individual who is placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

If the taxpayer files a joint return, the person can be related to either the taxpayer or their spouse. Also, the person does not need to be related to the spouse who provides support.

For example, your spouse's uncle who receives more than half of his support from them may be their qualifying relative, even though he does not live with them. However, if the taxpayer and their spouse file separate returns, the spouse's uncle can be a qualifying relative only if he lives with you all year as a member of your household.

A person who died during the year, but lived with the taxpayer as a member of their household until death, will meet this test. The same is true for a child who was born during the year and lived with the taxpayer as a member of their household for the rest of the year. The test is also met if a child lived with them as a member of their household except for any required hospital stay following birth. If their dependent died during the year and they otherwise qualify to claim an exemption for the dependent, they can still claim the exemption.

Example

Your dependent mother died on January 15. She met the tests to be your qualifying relative. The other tests to claim an exemption for a dependent were also met. You can claim an exemption for her on your return.

A person does not meet this test if at any time during the year the relationship between the taxpayer and that person violates local law.

Example

Your girlfriend lived with you as a member of your household all year. However, your relationship with her violated the laws of the state where you live, because she was married to someone else. Therefore, she does not meet this test and you cannot claim her as a dependent.

An adopted child is always treated as your own child. The term “adopted child” includes a child who was lawfully placed with you for legal adoption.

Your cousin meets this test only if he or she lives with you all year as a member of your household. A cousin is a descendant of a brother or sister of your father or mother.

Gross Income Test

To meet this test, a person's gross income for the year must be less than \$4,000.

Support Test (To Be a Qualifying Relative)

To meet this test, the taxpayer generally must provide more than half of a person's total support during the calendar year.

To figure whether the taxpayer have provided more than half of a person's total support by comparing the amount they contributed to that person's support with the entire amount of support that person received from all sources. This includes support the person provided from his or her own funds.

A person's own funds are not support unless they are actually spent for support.

Example

Your mother received \$2,400 in social security benefits and \$300 in interest. She paid \$2,000 for lodging and \$400 for recreation. She put \$300 in a savings account.

Even though your mother received a total of \$2,700 (\$2,400 + \$300), she spent only \$2,400 (\$2,000 + \$400) for her own support. If you spent more than \$2,400 for her support and no other support was received, you have provided more than half of her support.

Do not include in your contribution to your child's support any support paid for by the child with the child's own wages, even if you paid the wages.

Example 1

Grace Brown, mother of Mary Miller, lives with Frank and Mary Miller and their two children. Grace gets social security benefits of \$2,400, which she spends for clothing, transportation, and recreation. Grace has no other income. Frank and Mary's total food expense for the household is \$5,200. They pay Grace's medical and drug expenses of \$1,200. The fair rental value of the lodging provided for Grace is \$1,800 a year, based on the cost of similar rooming facilities. Figure Grace's total support as follows:

| | |
|--|----------------|
| Fair rental value of lodging | \$ 1,800 |
| Clothing, transportation, and recreation | 2,400 |
| Medical expenses | 1,200 |
| Share of food (1/5 of \$5,200) | 1,040 |
| Total support | \$6,440 |

The support Frank and Mary provide, \$4,040 (\$1,800 lodging + \$1,200 medical expenses + \$1,040 food), is more than half of Grace's \$6,440 total support.

Example 2

Your parents live with you, your spouse, and your two children in a house you own. The fair rental value of your parents' share of the lodging is \$2,000 a year (\$1,000 each), which includes furnishings and utilities. Your father receives a nontaxable pension of \$4,200, which he spends equally between your mother and himself for items of support such as clothing, transportation, and recreation. Your total food expense for the household is \$6,000. Your heat and utility bills amount to \$1,200. Your mother has hospital and medical expenses of \$600, which you pay during the year. Figure your parents' total support as follows:

| Support provided | Father | Mother |
|---------------------------------|----------------|----------------|
| Fair rental value of lodging | \$1,000 | \$1,000 |
| Pension spent for their support | 2,100 | 2,100 |
| Share of food (1/6 of \$6,000) | 1,000 | 1,000 |
| Medical expenses for mother | | 600 |
| Parents' total support | \$4,100 | \$4,700 |

You must apply the support test separately to each parent. You provide \$2,000 (\$1,000 lodging + \$1,000 food) of your father's total support of \$4,100 – less than half. You provide \$2,600 to your mother (\$1,000 lodging + \$1,000 food + \$600 medical) – more than half of her total support of \$4,700. You meet the support test for your mother, but not your father. Heat and utility costs are included in the fair rental value of the lodging, so these are not considered separately.

Do Not Include in Total Support

The following items are not included in total support.

1. Federal, state, and local income taxes paid by persons from their own income.
2. Social security and Medicare taxes paid by persons from their own income.
3. Life insurance premiums.
4. Funeral expenses.
5. Scholarships received by the child if the child is a student.
6. Survivors' and Dependents' Educational Assistance payments used for the support of the child who receives them.

Multiple Support Agreement

Sometimes no one provides more than half of the support of a person. Instead, two or more persons, each of who would be able to take the exemption but for the support test, together provide more than half of the person's support.

When this happens, the taxpayer can agree that any one of them, who individually provides more than 10% of the person's support, but only one, can claim an exemption for that person as a qualifying relative. Each of the others must sign a statement agreeing not to claim the exemption for that year. The person who claims the exemption must keep these signed statements for his or her records. A multiple support declaration identifying each of the others who agreed not to claim the exemption must be attached to the return of the person claiming the exemption. Form 2120, Multiple Support Declaration, can be used for this purpose.

A taxpayer can claim an exemption under a multiple support agreement for someone related to them or for someone who lived with them all year as a member of the taxpayer's household.

Example 1

You, your sister, and your two brothers provide the entire support of your mother for the year. You provide 45%, your sister 35%, and your two brothers each provide 10%. Either you or your sister can claim an exemption for your mother. The other must sign a statement agreeing not to take an exemption for your mother. The one who claims the exemption must attach Form 2120, or a similar declaration, to his or her return and must keep the statement signed by the other for his or her records. Because neither brother provides more than 10% of the support, neither can take the exemption and neither has to sign a statement.

Example 2

You and your brother each provide 20% of your mother's support for the year. The remaining 60% of her support is provided equally by two persons who are not related to her. She does not live with them. Because more than half of her support is provided by persons who cannot claim an exemption for her, no one can take the exemption.

Example 3

Your father lives with you and receives 25% of his support from social security, 40% from you, 24% from his brother (your uncle), and 11% from a friend. Either you or your uncle can take the exemption for your father if the other signs a statement agreeing not to. The one who takes the exemption must attach Form 2120, or a similar declaration, to his return and must keep for his records the signed statement from the one agreeing not to take the exemption.

Support Test for Children of Divorced or Separated Parents (or Parents Who Live Apart)

In most cases, a child of divorced or separated parents (or parents who live apart) will be a qualifying child of one of the parents. However, if the child does not meet the requirements to be a qualifying child of either parent, the child may be a qualifying relative of one of the parents.

Phaseout of Exemptions

The taxpayer loses at least part of the benefit of the exemptions if the adjusted gross income (AGI) is above a certain amount. For 2016, the phaseout begins at the following amounts.

| <u>Filing Status</u> | <u>AGI Level That Reduces Exemption Amount</u> |
|---------------------------|--|
| Married filing separately | \$155,650 |
| Single | 259,400 |
| Head of household | 285,350 |
| Married filing jointly | 311,300 |
| Qualifying widow(er) | 311,300 |

The taxpayer must reduce the dollar amount of the exemptions by 2% for each \$2,500, or part of \$2,500 (\$1,250 if they are married filing separately), that the AGI exceeds the amount shown above for the filing status. If the AGI exceeds the amount shown above by more than \$122,500 (\$61,250 if married filing separately), the amount of the deduction for exemptions is reduced to zero.

Social Security Numbers for Dependents

The taxpayer must show the social security number (SSN) of any dependent for whom they claim an exemption.

If they do not show the dependent's SSN when required or if they show an incorrect SSN, the exemption may be disallowed.

If a person for whom they expect to claim an exemption on their return does not have an SSN, either they or that person should apply for an SSN as soon as possible by filing Form SS-5.

If the child was born and died in 2016, and they do not have an SSN for the child, they may attach a copy of the child's birth certificate, death certificate, or hospital records instead. The document must show the child was born alive. If they do this, enter "DIED" in column (2) of line 6c of their Form 1040 or Form 1040A.

Section Practice Question

1. A taxpayer's son turned 19 on December 10. He will not meet the age test to be considered a qualifying child unless he:
 - a. Had no income
 - b. Was a full-time student
 - c. Lived with the taxpayer over half the year
 - d. Lived with the taxpayer for the entire year

See next page for answer.

Answers to Section Practice Questions

1. A taxpayer's son turned 19 on December 10. He will not meet the age test to be considered a qualifying child unless he:
 - a. Had no income
 - b. Was a full-time student**
 - c. Lived with the taxpayer over half the year
 - d. Lived with the taxpayer for the entire year