Publication 4491

VITA/TCE **Training Guide**

Volunteer Income Tax Assistance (VITA) / Tax Counseling for the Elderly (TCE)

Volume 3 of 16

2023 RETURNS

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Who has an Individual Taxpayer Identification Number?

Some individuals who need to file tax returns do not have SSNs. The IRS issues ITINs to nonresidents and others living in the U.S. who are required to have a U.S. TIN but who are not eligible to obtain SSNs.

The ITIN contains nine digits and is formatted like an SSN (XXX-XX-XXXX), but begins with the number 9 and has a specified range of numbers in the fourth and fifth digits. Generally, you should enter the ITIN on the return wherever the SSN is requested.

Under the Protecting Americans from Tax Hikes (PATH) Act, ITINs that have not been used on a federal tax return at least once in the last three consecutive years will expire at the end of the year. Affected taxpayers who expect to file a tax return for 2022 must submit a renewal application.

Taxpayers with an ITIN are able to file their returns but are not eligible for certain tax credits, such as the earned income credit. This is covered in later lessons.

Who has an Adoption Taxpayer Identification Number?

Taxpayers who are in the process of adopting a child and who are able to claim the child as their dependent or are able to claim the child and dependent care credit need an ATIN for their adoptive child.

The IRS issues an ATIN for the child while a final domestic adoption is pending, and the adopting taxpayers do not have the child's SSN.

Like an ITIN, the nine-digit ATIN begins with the number 9. Generally, you should enter the ATIN on the return wherever the child's Social Security number is requested.

Taxpayers who cannot obtain an SSN must apply for an ITIN if they file a U.S. tax return or are listed on a tax return as a spouse or dependent. These taxpayers must file Form W-7, Application for Individual Taxpayer Identification Number and supply documentation that will establish foreign status and true identity. A federal tax return must be associated with all Form W-7 applications with exceptions as noted in the Form W-7 Instructions.

Taxpayer, spouse, or dependent name and Social Security number mismatches are some of the most frequent errors in processing a tax return.

What are acceptable documents if the taxpayer does not have a Social Security card?

For individuals who do not bring their original or a copy of their Social Security card, you may accept either of the following:

- An SSA letter or a Form SSA-1099 statement
- An ITIN card or letter

Driver's licenses and passports are not acceptable substitutes for Social Security or ITIN cards.

What if the taxpayer does not have an SSN or ITIN?

For individuals without a valid SSN, explain that they must have a taxpayer identification number before you can assist them. Direct them to the Social Security Administration and advise them to complete Form SS-5, Social Security Number Application. If the individual is not eligible for an SSN, refer them to the IRS for Form W-7, Application for IRS Individual Taxpayer Identification Number.

For a taxpayer who cannot obtain an SSN and has not yet applied for an ITIN, you can use a temporary identification number to prepare the return in the tax software. Turn to the Volunteer Resource Guide, Tab L, Resident/NR Alien.

When preparing a tax return for an ITIN application, include all Forms W-2, even if the SSN on the W-2 does not belong to the taxpayer. Do not change any information on the W-2. Send it in with the return as it is. Since it is not going to be transmitted electronically, it does not matter if the SSN does not match in the software.

Attach the tax return behind Form W-7 along with documentation that will establish foreign status and true identity and have the taxpayer submit the application package according to the Form W-7 instructions.

- If it is not available at the volunteer site, the taxpayer can obtain Form W-7 by calling the IRS at 1-800-8293676 (1-800-TAX FORM) or download it at **https://www.irs.gov/pub/irs-pdf/fw7.pdf**
- If taxpayers need assistance in completing Form W-7, refer them to an IRS Taxpayer Assistance Center unless a volunteer at that site has been trained in the completion of Form W-7 or a Certifying Acceptance Agent (CAA) is available. A list of VITA sites that offer CAA services is

located at **www.irs.gov/individuals/vita-sites-that-offer-caa-services**. Alternatively, refer the taxpayer to a professional tax preparer.

- An ITIN will expire for any taxpayer who fails to file a federal income tax return for three consecutive tax years. Any ITIN will remain in effect as long as a taxpayer continues to file U.S. tax returns. This includes ITINs issued after Jan. 1, 2013. These taxpayers will no longer face mandatory expiration of their ITINs and the need to reapply. A taxpayer whose ITIN has been deactivated and needs to file a tax return can reapply using Form W-7.

When preparing a return to include with a Form W-7 application, refer to the instructions in the Volunteer Resource Guide, Tab L, Resident/NR Alien.

Question 4: It is your responsibility as a volunteer tax preparer to enter each Social Security number correctly on the tax return.

a. True

b. False

How do I choose the appropriate schedules to include with the tax return?

Form 1040 allows many taxpayers to file a short, simple form. Form 1040-SR, U.S. Income Tax Return for Seniors, is also available. It may be used by taxpayers who are age 65 or older at the end of the tax year. Schedules 1 through 3 have been created for instances where additional information needs to be carried over to the face of Form 1040/1040-SR.

The schedules are as follows:

- Schedule 1: Additional Income and Adjustments to Income

- Schedule 2: Additional Taxes
- Schedule 3: Additional Credits and Payments

How do I file a return?

Detailed instructions for completing and filing the return are covered in the Volunteer Resource Guide.

A return can be filed electronically using IRS e-file or by sending in a paper return. The due date for filing a return for most taxpayers is April 15, unless it falls on a Saturday, Sunday, or legal holiday.

What is electronic filing?

IRS e-file is a quick, easy, and more accurate alternative to paper returns. With e-filing, taxpayers receive their refund in half the usual time, and even faster with direct deposit.

How do I answer taxpayers' general non-tax questions?

The Volunteer Resource Guide, Publication 17, Form 1040 Instructions, and IRS.gov contain answers to many general non-tax questions asked by taxpayers during the interview process.

Questions such as "How can I get a copy of my prior year's return" or "How can I get an IRS form or publication" can be answered by researching your reference materials.

Turn to the "Frequent Taxpayer Inquiries" located in the Volunteer Resource Guide, Tab P, Partner Resources, and review this helpful information. For a list of helpful phone numbers, refer to "Information for Volunteers," located on the back of the Volunteer Resource Guide.

Review the index in the back of Publication 17 and locate answers to taxpayers' questions that are not answered in the Volunteer Resource Guide.

Using your reference materials, answer the following question.

Question 5: A taxpayer wants to know about the Presidential Election Campaign Fund. Where can you find that information?

What potential pitfalls should I keep in mind?

To avoid any difficulties when preparing tax returns:

- Always treat the information used to prepare an individual's income tax return as confidential.
- Canadians have a number that is like a Social Security number, but it is for their Canadian old age pension. Do not use this number on a U.S. tax return. Canadians often have both a U.S. and a Canadian Social Security number.

- Be alert to the following possible indications of fraudulent activity:
    - A Form W-2 that is typed, handwritten, or has noticeable corrections
    - A Form W-2 that looks different from other Forms W-2 issued by the same company
    - A suspicious person accompanying the taxpayer and observed on other occasions
    - Multiple refunds directed to the same address or P.O. box
    - Employment or earnings, which are a basis for refundable credits, that are not well documented
    - Similar returns (e.g., same amount of refund, or same number of dependents, or same number of Forms W-2)

- Notify your site's coordinator if you suspect any fraudulent or unusual activity.

Summary

Who must file?

To determine whether an individual is required to file a federal tax return:

- Obtain the person's age
- Calculate the person's approximate gross income
- Determine the person's likely filing status
- Use the table and guidelines in the Volunteer Resource Guide, Who Must File section

How do I verify taxpayer identity?

An initial step in the interview process is to verify the identity of the taxpayer(s), the accuracy of each SSN or ITIN, and spelling of names with the appropriate documents.

Which tax forms are used?

Form 1040/1040-SR are used with Schedules 1 through 3.

Filing the Return

E-filing is the safest, fastest, and easiest way to file a tax return. With e-file, taxpayers can generally expect their refund in less than 21 calendar days after the receipt of their tax return.

No refund for an overpayment for a taxable year shall be made to a taxpayer before February 15 if the taxpayer claimed a refundable credit such as the earned income credit on the tax return.

What situations are out of scope for the VITA/TCE programs?

The following are out of scope for this lesson. While this list may not be all inclusive, it is provided for your awareness only.

- Taxpayers who **cannot** prove their identity

EXERCISE Answers

Answer 1: a, Yes, Bob is required to file a return.

Answer 2: b, No, Janet and Harry are not required to file.

Answer 3: a, Yes, Juanita must file.

Answer 4: a, True. To prevent processing delays, check the accuracy of each Social Security number you enter on the return, as well as the spelling of the name associated with the number.

Answer 5: The Form 1040 Instructions provide an answer and the index in Publication 17 directs us to a paragraph in the chapter on Filing Information.

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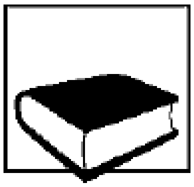
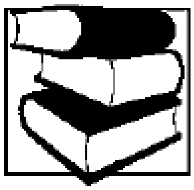
Filing Status

Introduction

This lesson will help you determine the most advantageous (and allowable) filing status for the taxpayer. Selecting and entering the correct filing status is a critical component of completing the taxpayer's return.

See Tab B, Starting a Return and Filing Status, in the Volunteer Resource Guide for filing status interview tips with helpful probing questions to use in your interview with the taxpayer.

Objective

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

- Determine the most beneficial filing status allowed for the taxpayer.

What do I need?

- Form 13614-C
- Publication 4012
- Publication 17

Optional:

- Publication 501
- Publication 555
- Publication 971
- Form 1040
- Form 2120
- Form 8379

What are the five filing statuses?

Taxpayers must use one of five filing statuses. Filing status impacts the calculation of income tax, affects the amount of the standard deduction, and determines allowance or limitation of certain credits and deductions. The following list puts them in order from the most beneficial to the least beneficial to the taxpayer.

- Married Filing Jointly
- Qualifying Surviving Spouse
- Head of Household
- Single
- Married Filing Separately

Most nonresident aliens and dual status aliens have different filing requirements and may have to file Form 1040-NR. In this case, the return is Out of Scope. Refer the taxpayer to a site with Foreign Student certification.

Taxpayers may qualify for more than one filing status. Choose the filing status that results in the lowest tax *for the taxpayer. Use the Volunteer Resource Guide to help determine the correct filing status.*

Filing status is selected in the Basic Information section. Go to the Volunteer Resource Guide to review the software entries.

How does marital status affect filing status?

The first step in determining taxpayers' filing status is to confirm their marital status on *the last day of the tax year. Avoid using information from the prior year*, as it may have changed.

Generally, taxpayers are considered to be **unmarried** for the entire year if, on the last day of the tax year, they were:

- Unmarried.
- Legally separated from their spouse under a divorce or separate maintenance decree.

State law governs whether taxpayers are married or legally separated under a divorce or separate maintenance decree.

Taxpayers are considered to be **married** for the entire year if:

- They were married on the last day of the tax year, **or**
- The spouse died during the year and the surviving spouse has not remarried

What are the requirements for each filing status?

Who is considered Single?

Taxpayers can use the Single filing status if, on the last day of the tax year, they were:

- Not married
- Legally separated or divorced, or
- Widowed before the beginning of the tax year and did not remarry

A marriage that has been legally annulled is treated as never having existed, even if it is annulled in a later year.

Can Single taxpayers qualify for another status?

Some single taxpayers qualify for Head of Household or for Qualifying Surviving Spouse status, which can mean a lower tax. These statuses will be discussed later in this lesson.

What is Married Filing Jointly?

Married taxpayers who choose to file a joint return will use one return to report their combined income and to deduct combined allowable expenses. Married taxpayers can select this status even if one of the spouses did not have any income or any deductions. The Married Filing Jointly status can be claimed by taxpayers who, on the last day of the tax year:

- Were married and lived together.

- Were married and living apart, but were not legally separated under a divorce or separate maintenance decree, (such as medical reasons or Military separation). State law governs whether taxpayers are married or legally separated under a divorce or separate maintenance decree.

- Were common law married pursuant to the laws of the state in which they live (or in the state where the common law marriage began) and the marriage has not been dissolved, such as by death or divorce.

- Are the surviving spouse who did not remarry before the end of the tax year (surviving taxpayer can file a joint return with the deceased spouse).

Taxpayers who file a joint return can’t choose to file separate returns for that year after the due date of the return. See the Amended and Prior Years Returns lesson for an exception for executors.

A citizen or resident alien married to a nonresident alien may be able to choose from more than one filing status. More information can be found in the Unique Filing Situations lesson.

Filing a joint return for a common law marriage applies to the federal return only. Volunteers must check state or local laws before completing a state return. Volunteers are not responsible for determining whether a couple is in a common law marriage. If taxpayers are not certain, refer them to a professional tax preparer.

What are the responsibilities of each taxpayer on a joint return?

Both taxpayers must include all worldwide income on their joint return. They each may be held responsible for all the tax and for any interest or penalty due, even if all the income was earned by only one spouse. A subsequent divorce usually does not relieve either spouse of the liability associated with the joint return.

In some cases, a spouse may be relieved of joint liability. Information is available in Publication 971, Innocent Spouse Relief, however, this topic is beyond the scope of the VITA/TCE programs. Refer taxpayers in this situation to a professional tax preparer.

When a joint return is filed and only one spouse owes a past-due amount, the other spouse may be considered an injured spouse and able to claim their portion of a joint refund. This is discussed later in this lesson.

What is Married Filing Separately?

The Married Filing Separately status is for taxpayers who are married, and either:

- Choose to file separate returns, or
- Cannot agree to file a joint return

Taxpayers who file as Married Filing Separately each report their own income and deductions on separate returns. These rules do not apply in community property states.

More information on community property is provided later in this lesson.

Taxpayers can change their filing status from a separate return to a joint return by filing an amended return using Form 1040-X.

Can Married Filing Separately taxpayers qualify for another status?

Some married taxpayers may be considered unmarried even if they are not divorced or legally separated. Such taxpayers may be able to use the Head of Household filing status, which may result in a lower tax than Married Filing Separately. Refer to the topic "Can married taxpayers ever file as Head of Household?" in this lesson to see if the "considered unmarried" definition applies.

Why are taxes usually higher for Married Filing Separately?

Special rules apply to Married Filing Separately taxpayers, which generally result in a higher tax. For example, when filing separately:

- The tax rate is generally higher than on a joint return.
- Taxpayers cannot take the child and dependent care credit, education credits, and certain other benefits and credits.
- Some credits and deductions, such as the child tax credit and the retirement savings contributions credit, are reduced at income levels that are half those for a joint return.
- If a taxpayer is Married Filing Separately and the spouse itemizes deductions on their return, the taxpayer must itemize and cannot take the standard deduction.

For Married Filing Separately taxpayers, enter the spouse’s name and Social Security number or ITIN on the tax return. If the taxpayer does not know the spouse’s Social Security number, refer to the Volunteer

Resource Guide, Tab B, Starting a Return and Filing Status, Entering Basic Information (continued). The return will need to be paper filed.

Whether or not a spouse is itemizing is only a concern for Married Filing Separately status. Married taxpayers qualified to file as Head of Household can take the standard deduction even if their spouse is itemizing.

For the complete list of special rules, see Publication 17, Filing Status.

Are there special rules for taxpayers who live in community property states?

The income of taxpayers who lived in Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, or Wisconsin during the tax year and who choose to file separate returns may be considered separate income or community income for tax purposes. The states of Tennessee and South

Dakota have passed elective Community Property Laws. Each state has its own community property laws, which may affect the amount of tax owed by taxpayers. See Publication 555, Community Property, for more information.

If your tax assistance program views community property tax laws for taxpayers who are Married Filing Separately or who are filing as Head of Household because they can be considered unmarried for income tax filing purposes as beyond the scope of the program, refer such taxpayers to a professional tax preparer.

If the taxpayer is in one of the community property states and is married and files a separate return from the spouse, Form 8958, Allocation of Tax Amounts Between Certain Individuals in Community Property States, must be completed in order to e-file the *return. See the instructions for Form 8958 for details on completing the form.*

If filing jointly generally results in the lowest total tax, why would married taxpayers want to file separately?

Married taxpayers sometimes choose to file separate returns when one spouse does not want to be responsible for the other spouse's tax obligations, or because filing separately may result in a lower total tax. For example, if one spouse has high medical expenses, separate returns may result in lower total taxes because a lower adjusted gross income allows more expenses to be deducted.

Another common reason taxpayers file as Married Filing Separately is to avoid an offset of their refund against their spouse's outstanding debts. This includes past due child support, past due student loans, or a tax liability the spouse incurred before they were married. If married taxpayers want to file separately, and a potential refund offset is the reason, suggest that they file a joint return with Form 8379, Injured Spouse Allocation or, after having filed separately, they can later amend and elect to file a joint return.

Who is considered to be an injured spouse?

When a joint return is filed and only one spouse owes a past-due amount, the other spouse can be considered an injured spouse. Injured spouses may file Form 8379 to receive their share of the refund shown on the joint return. The injured spouse:

1. Must not be legally obligated to pay the past-due amount, *and*
2. Must have made and reported tax payments (such as federal income tax withheld from wages or estimated tax payments), or claimed a refundable tax credit (see the credits listed in

Publication 17 under Who Should File?).

Both of these conditions must apply unless the injured spouse lived in a community property state at any time during the tax year. In community property states, the injured spouse must meet only the first condition. If the taxpayer meets these requirements, Form 8379 can be e-filed with the joint return. See the Instructions for Form 8379 for details on how to complete the form.

Taxpayers may not realize the cost of filing separately when Form 8379 could be used instead. Emphasizing the loss of credits, such as the earned income or education credits, may be helpful.

If a taxpayer already filed a joint return and the refund was offset, Form 8379 can be filed by itself. When filed after the offset, it can take up to eight weeks or longer for the taxpayer to receive a refund. Do not attach the previously filed tax return, but *do* include copies of all Forms W-2 and W-2G for both spouses and any Forms 1099 that show income tax withheld. The processing of Form 8379 may be delayed if these forms are not attached. A separate Form 8379 must be filed for each tax year to be considered.

An injured spouse claim is different from an innocent spouse relief request. Form 8379 allows an injured spouse to request the division of the tax overpayment attributed to each spouse. An innocent spouse uses Form 8857, Request for Innocent Spouse Relief, to request relief from joint liability for tax, interest, and penalties on a joint return for items of the other spouse (or former spouse) that were incorrectly reported on the joint return. For information on innocent spouses, see Publication 17, Innocent Spouse Relief and Relief from Joint Responsibility. Form 8857 is out of scope for the VITA/ TCE programs.

What if a spouse died during the tax year?

Remember, taxpayers whose spouses died during the tax year are considered married for the entire year, provided they did not remarry. The surviving spouse is eligible to file as Married Filing Jointly or Married Filing Separately.

Surviving spouses who have remarried must file with the new spouse, either jointly or separately. The deceased spouse’s filing status becomes Married Filing Separately.

Surviving spouses who have an eligible child may be able to use the Qualifying Surviving Spouse status in the two tax years following the year of the spouse’s death. This is discussed later in this lesson.

Who is Head of Household?

Taxpayers may qualify for the Head of Household filing status, if they:

- Are unmarried or “considered unmarried” on the last day of the tax year, and
- Paid more than half the cost of keeping up a home for the required period of time, and
- Had a qualifying person living in their home for more than half the year (except for temporary absences, such as school)

A qualifying person who is the taxpayer’s dependent parent does not have to live with the taxpayer. However, the parent(s) must qualify as the taxpayer’s dependent(s) for the taxpayer to qualify as Head of Household without using the multiple support provision (Form 2120, Multiple Support Declaration). For more information, review the Volunteer Resource Guide, Tab B, Starting a Return and

Filing Status, Who is a qualifying person for Head of Household status?

For a married taxpayer to be “considered unmarried,” there are special rules, discussed later in this topic.

What are the costs of keeping up a home?

The costs of keeping up a home include expenses such as rent, mortgage interest, real estate taxes, insurance on the home, repairs, utilities, and food eaten in the home. Under proposed regulations, a taxpayer may treat a home’s fair market rental value as a cost of maintaining a household instead of the sum of payments for mortgage interest, property taxes, and insurance. See Publication 17, Filing Status, Keeping Up a Home, for more information.

Who is a qualifying person for Head of Household status?

Turn to the chart, Who Is a Qualifying Person Qualifying You To File as Head of Household? in the Volunteer Resource Guide. A qualifying person for Head of Household is defined as:

- A qualifying child who is single (whether or not the child can be claimed as a dependent)
- A married child who can be claimed as a dependent
- A dependent parent
- A qualifying relative who lived with the taxpayer more than half the year, *and* is one of the relatives listed on the chart, *and* can be claimed as a dependent by the taxpayer

Sometimes no one provides more than half of the support of an individual. Instead, two or more persons, each of whom would be able to claim the individual as a dependent but for the support test, together provide more than half of the individual’s support. When this happens, a person who individually provides more

than 10% of the individual’s support can claim the individual as a dependent by agreement (Form 2120). An individual who is claimed as a dependent only because of a multiple support agreement is not a qualifying person for Head of Household status.

A person may be a qualifying relative dependent, but not qualify the taxpayer for Head of Household filing status. For example, a companion or friend who lives with the taxpayer all year may be the taxpayer’s dependent but not a qualifying person for Head of Household filing status.

Refer to the Volunteer Resource Guide, Tab B, Starting a Return and Filing Status, Who is a Qualifying Person Qualifying You To File as Head of Household? chart, when reviewing these examples. You will learn more about who can be claimed as a dependent in a later lesson.

Kate's unmarried 16-year-old daughter, Shelby, lived with her all year. Kate is single, provided all of Shelby's support, and paid all the costs of keeping up the home. Shelby is Kate's qualifying child dependent and is Kate's qualifying person for Head of Household filing status.

Michael provided all the costs of keeping up his home for the year. Michael's son Justin lived with him the entire year. Justin is 22 and was not a full-time student during the tax year, so he cannot be Michael's qualifying child. Although Justin only worked part-time, his income is greater than the gross income threshold amount for Michael to claim him as a qualifying relative dependent. Therefore, Michael cannot file

Head of Household because he does not have a qualifying person.

Jane and Todd are not married. Their daughter, Amanda, lived all year with Jane in an apartment. Todd lived alone. Todd earns more than Jane, and provides for some of her living expenses. He paid over half the cost of Jane's rent and utilities. He also gave Jane extra money for groceries. Even though Todd paid over half the cost of providing a home for Jane and Amanda, he cannot file Head of Household because Amanda did not live with him over half the year. Jane cannot be Head of Household either because she did not provide more than half the cost of keeping up the home for her daughter.

Nancy is single and lives alone. Nancy's mother, Maxine, lives alone in another city. Maxine receives Social Security *payments, but has no other income. Nancy pays all of the costs of keeping up the home her mother lives in and provides over half her support. Even though Maxine did not live with her, Maxine is Nancy's qualifying person for Head of Household filing status because Nancy can claim her mother as a dependent under the rules for qualifying relative.*

EXERCISES

Answers are after the lesson summary.

Question 1: Alexandra's younger brother, Sebastian, is seventeen years old. Sebastian lived with his grandparents for the first two months of the year. From March through July, he lived with Alexandra. On August 1, Sebastian moved in with some friends and stayed there for the rest of the year. Since Sebastian did not have a job, Alexandra gave him money every month. Assuming Alexandra had no other dependents, can she file as Head of Household?

a. Yes

b. No

Since her spouse died five years ago, Joan has lived with her friend, Mary Ann, who is also a widow. Joan is a U.S. citizen, is single, and lived with Mary Ann all year. Joan had no income and received all of her support from Mary Ann. Joan is Mary Ann's qualifying relative because she lived with Mary Ann all year as a member of her household. Mary Ann can claim Joan as a dependent on her return.

However, Joan is not a qualifying person for Head of Household filing status because she is not related to Mary Ann in one of the ways listed on the chart in the Volunteer Resource Guide. She is Mary Ann's qualifying relative *dependent only because she lived with Mary Ann all year as a member of her household.*

Notice that the relatives who qualify a person for Head of Household may not be the same individuals who could qualify as a taxpayer's dependent. One such situation is when the custodial parent releases the child's exemption to the noncustodial parent. The child remains the custodial parent's qualifying person for Head of Household status.

The qualifying person for Head of Household filing status must be related to the taxpayer.

What are the advantages of filing as Head of Household?

The Head of Household filing status provides a higher standard deduction and, generally, a lower tax rate than Single or Married Filing Separately.

Who can be “considered unmarried” for Head of Household?

Married taxpayers may be “considered unmarried” and file as Head of Household if they:

- File a return for the tax year separate from their spouse.
- Paid more than half the cost of keeping up their home. See the Worksheet for Cost of Keeping Up a Home in the Volunteer Resource Guide.
- Lived apart from their spouse during the entire last six months of the tax year. The spouse is considered to have lived in the home even if temporarily absent due to special circumstances, such as military service or education.
- Provided the main home for more than half the year of a *dependent* child, stepchild, or foster child placed by an authorized agency. This test is also met if

the taxpayer cannot claim the exemption only because the noncustodial parent can claim the child as discussed in the Dependents lesson of this publication.

Denise is married but has lived apart from her spouse for two years. Denise pays all the costs of keeping up her home for herself and her dependent 12-year-old son, who lives with her. Denise can choose to file as Head of Household for the tax year because she meets the definition of "considered unmarried."

A taxpayer who is married to a nonresident alien spouse may be able to file as Head of Household even if the taxpayer lived with the spouse for the year. Review the Unique Filing Situations lesson for more information.

Who is a Qualifying Surviving Spouse?

Taxpayers who do not remarry in the year their spouse dies can file jointly with the deceased spouse. For the two years following the year of death, the surviving spouse may be able to use the Qualifying Surviving Spouse filing status. To qualify, the taxpayer must:

- Be entitled to file a joint return for the year the spouse died, regardless of whether the taxpayer actually filed a joint return that year.
- Have had a spouse who died in either of the two prior years. The taxpayer must not remarry before the end of the current tax year.
- Have a child, stepchild, or adopted child who qualifies as the taxpayer’s dependent for the year or would qualify as the taxpayer’s dependent except that he or

she does not meet the gross income test, or does not meet the joint return test, or except that the taxpayer may be claimed as a dependent of another taxpayer.

- Live with this child in the taxpayer's home all year, except for temporary absences.
- Have paid more than half the cost of keeping up the home for the year.

A foster child does not qualify a taxpayer for the Qualifying Surviving Spouse filing status.

The standard deduction and tax tables are the same for Qualifying Surviving Spouse and Married Filing Jointly filing statuses. These are more favorable than those for Head of Household filing status.

Laura's spouse, Jim, died in September of the tax year. She has not remarried, and provides all the support for their dependent children, ages 8 and

10. Laura can file as Married Filing Jointly for this tax year. For the next two tax years, she can use the Qualifying Surviving Spouse status if she does not remarry.

How do I determine the correct filing status?

To determine the correct filing status, follow the Filing Status Interview Tips in the Volunteer Resource Guide, Tab B, Starting a Return and Filing Status. Be sure to complete the shaded dependent portion on the Intake/ Interview and Quality Review Sheet.

EXERCISES (continued)

Check your understanding of each filing status. Review the lesson and use the Filing Status Interview Tips in the Volunteer Resource Guide to determine the answer. Answers are after the lesson summary.

Question 2: Jane's husband moved out of their home in February of the tax year and has not returned. Jane provides all the cost of keeping up the home for herself and her two dependent children. Jane refuses to file a joint return with her husband. What filing status should she use?

a. Single

b. Married Filing Separately

c. Head of Household

d. Qualifying Surviving Spouse

Question 3: Seth lives alone and has never married. He does not support either of his parents. What filing status(es) can he use?

a. Single

b. Married Filing Jointly

c. Married Filing Separately

d. Head of Household

e. Qualifying Surviving Spouse

Question 4: Tanya’s divorce became final in early September of the tax year. She has sole custody of her three children, who lived with her the entire year. The children are all under the age of 19. She provided more than half of the cost of keeping up the home. What filing status(es) can she use?

a. Single

b. Married Filing Jointly

c. Married Filing Separately

d. Head of Household

e. Qualifying Surviving Spouse

Question 5: Sydney’s spouse died two years ago in January. He filed a joint return for that year as the surviving spouse. Since then, Sydney has not remarried, maintains a home for his young children who lived with him all year, and provides their sole support. Using the Filing Status Interview Tips in the

Volunteer Resource Guide, determine what filing status Sydney should use?

a. Single

b. Married Filing Jointly

c. Married Filing Separately

d. Head of Household

e. Qualifying Surviving Spouse

Summary

This lesson covered the five filing statuses:

- Single
- Married Filing Jointly
- Married Filing Separately
- Head of Household
- Qualifying Surviving Spouse

If taxpayers qualify for more than one filing status, choose the one that results in a lower tax. For example, in most cases, married couples pay less tax if they file a joint return.

In general, the Head of Household filing status is for unmarried taxpayers who paid more than half the cost of maintaining a home for a qualifying person for the required period of time. However, some married taxpayers who lived apart from their spouse during the last six months of the year and provided for dependent children may be "considered unmarried" and qualify to file as Head of Household.

A widow or widower with one or more qualifying children may be able to use the Qualifying Surviving Spouse filing status, which is available for two years following the year of the spouse's death.

What situations are out of scope for the VITA/TCE programs?

The following are out of scope for this lesson. While this list may not be all inclusive, it is provided for your awareness only.

- A spouse who may be relieved of joint liability as an innocent spouse
- Depending on your tax assistance program, married taxpayers who wish to file a separate return from their spouse and are subject to community property tax laws
- Taxpayers who are not certain they are in a common law marriage (rules are complex and differ from state to state)

EXERCISE Answers

Answer 1: b, No. Sebastian lived with Alexandra for five months, which is less than half the year.

Answer 2: c, Head of Household. Even though Jane is still married to her husband, she meets the requirements to be "considered unmarried" for filing status purposes and qualifies to file as Head of Household. Although technically she could file as Married Filing Separately, it would not be to her advantage to do so.

Answer 3: a, Single. He is not married, has no dependents living in his household, and does not claim his parents as dependents, Seth can only file as Single.

Answer 4: d, Head of Household. Because she is legally divorced, Tanya could file as Single. However, because she has children and meets the requirements for Head of Household, she should use this as her filing status because it will result in a lower tax.

Answer 5: e, Qualifying Surviving Spouse. Although Sydney meets the requirements to file as Single, Head of Household or Qualifying Surviving Spouse, the Interview Tips will help you to determine that he should use the Qualifying Surviving Spouse filing status because it will result in the lowest tax.

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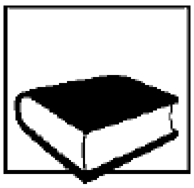
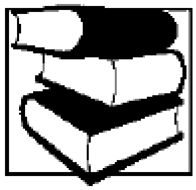
Personal Exemptions

Introduction

Identifying and entering the correct number of exemptions is an important component of completing taxpayers' returns.

Objectives

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

- Distinguish between personal and dependency exemptions
- Determine if a taxpayer can be claimed as a dependent on another taxpayer's return

What do I need

- Form 13614-C
- Publication 4012

- Publication 17

Optional:

- Publication 501

What are exemptions?

An **exemption** is a dollar amount that can be deducted from an individual's total income, thereby reducing the taxable income. Taxpayers may be able to claim two kinds of exemptions:

- Personal exemptions generally allow taxpayers to claim themselves (and possibly their spouse)
- Dependency exemptions allow taxpayers to claim qualifying dependents

The deduction for personal exemptions is suspended (reduced to $0) for tax years 2018 through 2025 by the Tax Cuts and Jobs Act. Although the exemption amount is zero, the ability to *claim an exemption may make taxpayers eligible for other tax benefits.*

When can a taxpayer claim personal exemptions?

To claim a personal exemption, the taxpayer must be able to answer "no" to the intake question, "Can anyone claim you or your spouse as a dependent?"

This applies even if another taxpayer does not actually claim the taxpayer as a dependent. In this case, the taxpayer must check the box on Form 1040 that indicates that they can be claimed as a dependent. Married taxpayers filing a joint return should also check the box if the spouse can be claimed as a dependent by another taxpayer. This means they may have to use a smaller standard deduction amount. See the lesson Standard Deduction and Tax Computation for more information on this topic.

An individual is not a dependent of a person if that person is not required to file an income tax return and either does not file an income tax return or files an income tax return solely to claim a refund of estimated or withheld taxes. If this is the situation, the taxpayer should answer “no” to “can anyone claim you as a dependent?” If that other individual chooses to file a return as described, they should **not** list the taxpayer as a dependent.

Refer to the next lesson for the rules for claiming a dependent.

Review the Volunteer Resource Guide Tab B, Starting a Return and Filing Status, for the required entries if the taxpayer is not able to claim his or her own personal exemption.

Taxpayer Interview and Tax Law Application

Ray Jackson is a college student who worked during the tax year. Use the Volunteer Resource Guide to help him determine if his parents can claim him as a dependent. Here’s how the conversation might sound:

Sample Interview

Volunteer Says…	Ray Responds…
The questions I’m about to ask you will help us figure out if you can be claimed as a dependent by your parents. First of all, you aren’t married and you are a U.S. citizen, correct?	Yes, that’s correct.

And you were under age 24 at the end of the tax year and a full-time student?	That's right.
Did you live with your parents for more than half the year?	I lived with them during the summer and other school breaks, but when school was in session, I lived in the dorm on campus.
Okay, that's considered a temporary absence so for tax purposes, you lived with your parents all year. Did you pay more than half of your own support?	I worked part-time, but I didn't make that much. I used my money to buy a few books and some food, but my parents paid my tuition, room and board, and most of my other expenses like

	clothing and medical bills.
Based on what you've told me, you are considered a qualifying child of your parents and they can claim you as a dependent. We will indicate this on your return so it doesn't cause problems for your parents when they file their return.	Okay, thanks.

When preparing a return for a deceased taxpayer, refer to the Volunteer Resource Guide, Tab B, Starting a Return and Filing Status, for instructions on entering basic information in the software.

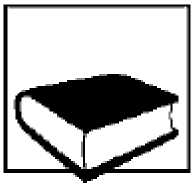
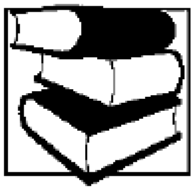
Summary

There are two types of exemptions:

- Personal
- Dependency

The deduction for personal exemptions is suspended (reduced to $0) for tax years 2018 through 2025. If a taxpayer can be claimed as a dependent on another taxpayer's return, they must check the box on Form 1040 that indicates that they can be claimed as a dependent. An individual is not a dependent of a person if that person is not required to file an income tax return and either does not file an income tax return or files an income tax return solely to claim a refund of estimated or withheld taxes. If this is the situation, the taxpayer should answer "no" to "can anyone claim you as a dependent?" and the other individual should not list the taxpayer as their dependent if they file a return.

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 tests

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.

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

Who are NOT dependents?

An individual is not a dependent of a person if that person is not required to file an income tax return and either does not file an income tax return or files an income tax return solely to claim a refund of estimated or withheld taxes.

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.

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

- 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. An individual is not a dependent of a person if that person is not required to file an income tax return and either does not file an income tax return or files an income tax return solely to claim a refund of estimated or withheld taxes. If this is the situation, the taxpayer should answer “no” to “can anyone claim you as a dependent?”

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.

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 parents supported her and paid for the wedding, they cannot claim her as a dependent because she is filing a joint return with her husband. Even though Ruth is not her parents' dependent, they may be entitled to other benefits discussed in later lessons.

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.

Taxpayers may be able to claim a qualifying person for a credit or other tax benefit even if the person cannot be claimed as a dependent.

What are the tests for a qualifying child?

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 as the taxpayer’s own child for the purposes of the relationships described above. For example, an adopted brother or sister is a brother or sister of the taxpayer. An adopted child includes a child who was lawfully placed with a person for legal adoption.

Age

To meet this test, the child must meet one of the following three criteria:

- Under age 19 at the end of the tax year and younger than the taxpayer (or the taxpayer’s spouse, if filing jointly)

- 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)
    - 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. An individual is considered permanently and totally disabled if both of the following conditions apply:
    - He or she can’t 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.

Sarah's son Julio is 32 years old and is permanently and totally disabled. Because he is disabled, Julio meets the age test to be a qualifying child of Sarah. If he meets all the other tests, Sarah can claim him as a dependent.

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 on their federal return. State tax laws may differ.

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.

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.

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.

On the other hand, if a child receives Social Security benefits that are used for the child's own support, the benefits are considered to be provided by the child.

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

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 or credit for other dependents
- 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 generally 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. There are special rules that apply to divorced or separated parents that allow the noncustodial parent to claim some of the benefits.

To determine which taxpayer can treat the child as a qualifying child and claim the benefits, apply these rules keeping in mind that an adopted child is treated as the taxpayer's own child:

- 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.

Mary and her 3-year-old daughter, Jane, lived with Mary's mother, Dorothy, all year. Mary is 25 years old, unmarried, and has an AGI of $19,000. Dorothy has an AGI of $25,000. Jane's father didn't live with Mary or Jane. Mary has not signed Form 8332 (or a similar statement).

Jane is a qualifying child of both Mary and Dorothy because she meets the relationship, age, residency, support, and joint return tests for both Mary and Dorothy. However, only one of them can claim Jane. Jane isn't a qualifying child of anyone else, including her father.

Mary agreed to let her mother claim Jane. This means Dorothy can claim Jane as a qualifying child for all of the tax benefits listed earlier, if Dorothy qualifies for each of those benefits (and if

Mary doesn't claim Jane as a qualifying child for any of those tax benefits).

However, if Mary and Dorothy can't agree, only Mary will be allowed to claim Jane as a qualifying child.

In the example above, if circumstances are the same except Mary's AGI is $28,000, only Mary can claim Jane as a qualifying child. Because Dorothy's AGI isn't higher than Mary's, Dorothy cannot claim Jane.

When both taxpayers are the child's parents and not filing a joint return, they may agree between themselves who will claim the child. This may occur when the parents are not married but the family lives together.

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.*

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, Dependents, Standard Deduction, and Filing Information, provide more information about qualifying children of more than one person.

What are the tests for a qualifying relative?

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

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

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?

a. Yes

b. No

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

An adopted child is treated as the taxpayer’s own child for the purposes of the relationships described above. For example, an adopted brother or sister is a brother or sister of the taxpayer. An adopted child includes a child who was lawfully placed with a person for legal adoption.

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

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.

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.

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 Important Changes 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 the Volunteer Resource Guide, Tab D, Income. 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.

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, which tests whether the child provided more than one half of their own support.

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.

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.

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.

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

Refer to the Worksheet for Determining Support in the Volunteer Resource Guide, Tab

C, Dependents, or the 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.

If you can claim a person as a dependent only because of a multiple support agreement, that person isn't a qualifying person for Head of Household status.

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.

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.