

IRM PROCEDURAL UPDATE

DATE: 03/31/2023

NUMBER: wi-04-0323-0482

SUBJECT: EITC Qualifying Child (QC): Update to the Support and Tiebreaker Rule for Supporting Documentation and Eligibility Requirement Explanation; Correction to the Tax Court Citation Regarding the Form 8332

AFFECTED IRM(s)/SUBSECTION(s): 4.19.14.6.5

IRM 4.19.14.6.5, EITC - Personal Exemptions and Dependents - Deleted the second sentence under the Qualifying Child (QC) Support Eligibility Requirement, Supporting Documentation column, in the paragraph (4) table. This sentence was deleted to conform to the eligibility requirement that the QC cannot provide more than 1/2 their own support. Therefore, the examiner should not seek substantiation from the taxpayer to show support of the QC; Added language to the Tie-Breaker Rule, Eligibility Requirement Explanation column, to clarify the tiebreaker rules apply to resolve issues when the claimed dependent is the qualifying child of more than one person.

IRM 4.19.14.6.5, EITC - Personal Exemptions and Dependents - Corrected the citation in the paragraph (9) table, under Support Test, Verifying Information, for the King v Commissioner tax court case.

(1) Requirements for claiming dependents prior to tax year 2009, can be found in Pub 501, Dependents, Standard Deduction, and Filing Information.

(2) For requirements to claim dependents for tax year 2009 and subsequent, see below. The tax examiner may consider the use of other supporting documentation not in the list below, and should exercise judgment and use internal research when verifying documents sent in by the taxpayer.

(3) IRC 152 defines a dependent as a qualifying child (QC) or a qualifying relative (QR). There are five dependency tests that apply to determine whether an individual is a QR. The tests for determining whether an individual is a QC are different. An individual that is a QC of any taxpayer cannot be a QR of a taxpayer. The definition of a qualifying child may also be relevant for determining whether a taxpayer may claim HOH filing status, the CTC, CDCC, and the EITC.

(4) The Tax Cuts and Job Act amended IRC 151, effective for Tax Years 2018 through 2025, suspended the deduction for personal exemptions by reducing the amount of the deduction to zero. The rules for claiming a dependent on the tax return for a credit or to support the Head of Household filing status remains the same. For complete details, see Pub 501.

Qualifying Child (QC) Eligibility Requirement	Eligibility Requirement Explanation	Supporting Documentation
Relationship	<p>Son or daughter (including an adopted child)</p> <p>grandchild or great grandchild, stepson, stepdaughter, step-grandchild or step-great grandchild, child pending adoption,</p> <p>brother, sister, stepbrother or stepsister or a descendant of any of them (such as a niece or nephew),</p> <p>eligible foster child (placed with you by an authorized placement agency); IRC 152(c)(2)</p> <p>Note: An individual legally adopted by the taxpayer or an individual who is lawfully placed with the taxpayer for legal adoption is treated as a child of the taxpayer by blood. An eligible 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. The terms brother and sister also include siblings who have only one parent in common, for example, the same mother, but have different fathers.</p> <p>Caution: The Government of Puerto Rico enacted a new law (Law 191 of 2009 as Amended). Effective October 31, 2010, any Puerto Rican birth certificate issued prior to July 1, 2010 is no longer</p>	<ul style="list-style-type: none"> • Birth certificates or other official documents of birth that shows the relationship to the dependent claimed. <p>For Example: If the dependent the taxpayer is claiming is the child of the taxpayer's sibling, which is their niece or nephew who lived with them, the taxpayer would need to provide:</p> <ol style="list-style-type: none"> 1. A copy of taxpayer's birth certificate, 2. A copy of the birth certificate of the taxpayer's sister or brother who is the parent of the child, and 3. A copy of the birth certificate of the child claimed. <p>Note: All three birth certificates would be required to show the relationship linkage.</p> <ul style="list-style-type: none"> • Marriage certificates that verify your relationship to the child • Letter from an authorized adoption agency • Letter from the authorized placement agency or applicable court document

Qualifying Child (QC) Eligibility Requirement	Eligibility Requirement Explanation	Supporting Documentation
	<p>valid. If a taxpayer submits a birth certificate that was issued by the Puerto Rican government prior to July 1, 2010, the birth certificate should not be accepted. The taxpayer should be informed of the new law and directed to contact the Puerto Rico Vital Statistics Record Office to request a new birth certificate.</p>	<p>Military Personnel Acceptable proof of status</p> <p>Defense Enrollment Eligibility Reporting System (DEERS), which provides a list of authorized dependents whose relationship, has been verified. Leave and Earnings Statement (LES), which verifies if the taxpayer is paying a voluntary allotment for Basic Housing Allotment (BHA) payable to the dependents or custodial parent, or if the taxpayer is having child support payments garnished.</p>
Residency	<p>The QC must live in the household for more than half of the year; IRC 152(c)(1)(B)</p> <p>Temporary absences count as time lived together;</p> <p>Exceptions apply for children of divorced or separated parents; IRC 152(e)</p> <p>If a QC who was born or died during the year lived with taxpayer for more than one-half of the portion of the taxable year during which the QC was alive, residency test is treated as met. Prop. Reg. 1.152-4(d)(1)</p> <p>A child adopted by the taxpayer, a child lawfully placed with the taxpayer for legal adoption, or an eligible foster child placed with the taxpayer, meets the residency test for a qualifying child if the child has the same residence as the taxpayer for more than one-half of the portion of the year following the placement of the child with the</p>	<ul style="list-style-type: none"> • Photocopies of school, medical, childcare provider (provider can't be a relative) or social service records that shows the name of child's parent or guardian, child's address and the dates they lived with taxpayer. <p>Note: The taxpayer may provide other documentation to show residency. Most report cards do not have all the required information for residency but some report cards do have the requested information and should be accepted.</p> <ul style="list-style-type: none"> • A letter on official letterhead from a school, a health care provider, a social service agency, placement agency official, employer, Indian tribal official, landlord or

Qualifying Child (QC) Eligibility Requirement	Eligibility Requirement Explanation	Supporting Documentation
	<p>taxpayer.</p> <p>Example: An eligible foster child is placed with the taxpayer on August 1, 2021, through the end of tax year 2021. The child meets the residence test if the child resides with the taxpayer for more than 2 and ½ months.</p>	<p>property manager, or a place of worship that shows the name of child's parent or guardian, child's address and the dates they lived with taxpayer</p> <p>Note: If the lease is not available on official letterhead, the taxpayer may submit a copy of their existing lease for consideration, along with additional supporting documentation.</p> <p>Note: If the taxpayer's address is a post office box, request a photocopy of the stamped/accepted Postal Form 1093, Application for Post Office Box Service, to verify the taxpayer's street address.</p> <p>Note: If internal research validates information listed on the documents provided by the taxpayer to show residency, use professional judgment to allow. Example: A letter from a landlord, not on official letterhead, verifying the dependent's residency, and Accurint verifies the landlord is the owner of the property, may be accepted.</p>
Age	<p>Under age 19 at the end of the tax year and younger than taxpayer (or taxpayer's spouse, if filing jointly)</p> <p>or</p> <p>Under age 24 at the end of the tax year, a student, and younger than taxpayer (or taxpayer's spouse, if</p>	<ul style="list-style-type: none"> The taxpayer should send photocopies of official school records showing the child was a full-time student for at least five months of the tax year. The school records should show the dates of attendance. The months of

Qualifying Child (QC) Eligibility Requirement	Eligibility Requirement Explanation	Supporting Documentation
	filing jointly) Note: See definition of student in IRC 152(f)(2).	attendance do not have to be consecutive.
Age	Any age if permanently AND totally disabled at any time during the tax year; IRC 152(c)(3) Note: See definition of permanently and totally disabled in IRC 22(e)(3).	<ul style="list-style-type: none"> • The taxpayer should send a letter from the dependent's doctor, other health care provider, or any social service program or agency verifying the dependent is permanently and totally disabled. <p>For Example: Statements from Social Security Administration (SSA) which indicate a qualifying child is receiving Supplement Security Income (SSI) payments may be accepted as verification a dependent is permanently and totally disabled when:</p> <ol style="list-style-type: none"> 1. The dependent is 18 years or older, 2. The SSI is for the audit year, and 3. The dependent is not filing a tax return for the year under audit. <ul style="list-style-type: none"> • Use IDRS Command Code INOLE to verify QC age.
Support	QC cannot provide more than 1/2 of their own support; IRC 152(c)(1)(D)	The taxpayer may provide receipts for food, clothing, rent, medical, dental, schooling, recreation, and personal items.
Citizenship	Citizen/national/ resident alien of U.S., resident of Canada or Mexico / adopted child. The exception for an adopted child is found in IRC 152(b)(3).	Birth certificate, driver's license, school records, "green card" or other DHS documents may be provided.

Qualifying Child (QC) Eligibility Requirement	Eligibility Requirement Explanation	Supporting Documentation
	<p>If the taxpayer is a U.S. citizen or U.S. national who has legally adopted a child who is not a U.S. citizen, U.S. resident alien, or U.S. national, and the child lived with the taxpayer as a member of the taxpayer's household all year, the citizenship test is met. The citizenship test is also met if the child was lawfully placed with the taxpayer for legal adoption and the child lived with the taxpayer for the rest of the year after placement.</p> <p>Note: Refer to Pub 519, U.S. Tax Guide for Aliens.</p>	<ul style="list-style-type: none"> • A U.S. resident alien who does not have a green card must either show (1) the substantial presence test was met, or (2) they resided in Canada or Mexico. • Use IDRS Command Code DDBKD to research QC citizenship status.
Married Child Joint Return	IRC 152(b)(2) - A qualifying relative shall not include an individual who has made a joint return with the individual's spouse for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.	Verify no other return filed with dependent's SSN. If joint return filed, verify the return was filed only as a claim for refund and no tax liability would exist for either spouse on separate returns.
Tie- Breaker Rule	IRC 152(c)(4) defines the Tiebreaker Rules. Refer to IRM 4.19.14.6.1, EITC Qualifying Child (QC) for additional information if the dependent is the qualifying child of two or more people.	Internal Revenue Code 152(c) (1) provides a uniform definition of a QC for determining whether a taxpayer qualifies for HOH filing status, CDCC, CTC/ACTC, EITC, for the dependent claimed. Notice 2006-86 clarifies that, unless the special rule in IRC 152(e) for divorced or separated parents applies, the tie-breaking rule in IRC 152(c)(4) applies to these provisions as a group, rather than on a section-by-section basis.
Requirements and Special Rules	The taxpayer cannot be dependent of another taxpayer; IRC 152(b)(1)	If the taxpayer is claimed as a dependent on another taxpayer's return, and the taxpayer says they should not be claimed on the other taxpayer's return but is self-supporting; the taxpayer needs to provide documentation showing

Qualifying Child (QC) Eligibility Requirement	Eligibility Requirement Explanation	Supporting Documentation
		<p>self-support. Some examples are: utility bills, rent or mortgage receipts, property tax bills.</p> <p>Note: These items can be used as proof of self-support and residence. (if housing is an item of support, then its value is the rent paid or the fair rental value of the housing)</p>

Complete Master File research on all TIN's listed on DDBOL

- Complete Master File research using DDBKD to verify relationship. Accept Birth Certificate showing relationship. DDBKD also indicates if the taxpayer was the QC of someone else.
- Complete INOLE research for age verification and TIN issuance date. See IRM 4.19.13.4, Researching Cases.
- Request proof of separate residence from the person claiming the qualifying child, such as rent receipts, school records, property tax bill, or utility receipts, if research indicates taxpayer is married.

Qualifying Relative (QR) Eligibility Requirement	Eligibility Requirement Explanation	Supporting Documentation
Relationship	<p>Per IRC 152 (d) (2), relationship is defined as a child (son, daughter, adopted child, stepchild, eligible foster child) or descendants. Sibling of son or daughter or step-sibling or step-parent.</p> <p>Parent or ancestor of sibling In-laws (mother, father, brother, sister, son, daughter).</p> <p>Non-relative household member who was not a spouse at any time</p>	<ul style="list-style-type: none"> • Birth Certificate(s) showing relationship, adoption papers, court documents, school records. • IDRS Research. • If taxpayer claims a person who does not meet the relationship as defined in IRC 152(d)(2) as a qualifying relative, the taxpayer should send proof the person has lived in their home for the entire

Qualifying Relative (QR) Eligibility Requirement	Eligibility Requirement Explanation	Supporting Documentation
	<p>during the year if the relationship is not in violation of local law.</p> <p>Note: Any of the relationships listed above that were established by marriage are not ended by death or divorce. A person related to a taxpayer in any of the ways listed above does not have to live with the taxpayer to meet the dependency residency test.</p> <p>Caution: The Government of Puerto Rico enacted a new law (Law 191 of 2009 as Amended). Effective October 31, 2010, any Puerto Rican birth certificate issued prior to July 1, 2010, is no longer valid. If a taxpayer submits a birth certificate that was issued by the Puerto Rican government prior to July 1, 2010, the birth certificate should not be accepted. The taxpayer should be informed of the new law and directed to contact the Puerto Rico Vital Statistics Record Office to request a new birth certificate.</p>	<p>12 months of the year.</p>
Residency	<p>Residency requirements applicable only to household members who are not related. Non-relatives must verify residency for entire year per IRC 152(d)(2)(H).</p> <p>Temporary absences count as time lived together; birth or death during the year count as entire year if QR lived with taxpayer the entire time alive per IRC 152(f)(6)(C)(ii).</p>	<p>To show the taxpayer and non-relative living at the same address or addresses for the entire tax year, the taxpayer should send either:</p> <ul style="list-style-type: none"> • School, medical, daycare, or social service records that show the common address and dates. • A letter on the official letterhead from a school, medical provider, social service agency, or place of

Qualifying Relative (QR) Eligibility Requirement	Eligibility Requirement Explanation	Supporting Documentation
	<p>Exceptions apply for children of divorced or separated parents; IRC 152(e).</p>	<p>worship that shows names, common address, and dates.</p> <p>Do not accept documents signed by someone related to the taxpayer. If the taxpayer submits a document from a relative, inform the taxpayer they will need to provide a document from an unrelated party.</p>
Age	N/A	
Support	<p>Taxpayer must provide over one half of QR support per IRC 152(d)(1)(C).</p> <p>Multiple support applies.</p> <p>An exception applies for children of divorced or separated parents per IRC 152(e).</p> <p>Kidnapped child exception applies per IRC 152(f)(6)(C).</p>	<p>Taxpayer should send copies of the following documents as proof they provided more than half of their dependent's total support:</p> <ul style="list-style-type: none"> • A statement of account from a child support agency • A statement from any government agency verifying the amount and type of benefits the taxpayer and/or the taxpayer's dependent received for the year • Rental agreements or a statement showing the fair market value of taxpayer's residence (proof of lodging cost) • Utility and repair bills (proof of household expenses) with canceled checks or receipts • Day-care, school, medical records or bills (proof of child's support) with canceled checks or receipts • Clothing bills (proof of

Qualifying Relative (QR) Eligibility Requirement	Eligibility Requirement Explanation	Supporting Documentation
		child's support) with canceled checks or receipts
Citizenship	Same as Dependent QC. See IRM 4.19.14.6.5, Personal Exemptions and Dependents.	Same as Dependent QC. See IRM 4.19.14.6.5.
Married Child Joint Return	Per IRC 152(b)(2), A qualifying child does not include an individual who is married at the end of the tax year, unless the individual (i.e. taxpayer) is only filing a claim for refund return only and no tax liability would exist for either spouse on separate returns.	Same as Dependent QC. See IRM 4.19.14.6.5.
Tie- Breaker Rule	Does not apply	
Requirements and Special Rules	QR Cannot be qualifying child of another taxpayer; IRC 152(d)(1)(D)	If the QR qualifies as a QC for another taxpayer, i.e., meets the age, relationship and residency tests, the child MAY NOT be claimed as a qualifying relative by any taxpayer. However, an individual is not a QC of "any other taxpayer" if the individual's parent (or other person with respect to whom the individual is defined as a QC) is not required to file an income tax return and (i) does not file an income tax return, or (ii) files an income tax return to only obtain a refund of withheld taxes.
	QR gross income cannot exceed exemption amount excluding qualified income for permanently disabled QR; IRC 152(d)(1)(B), IRC 152(d)(4) Taxpayer cannot be a dependent of another Taxpayer; IRC 152(b)(1)	Verify that there is no return filed showing income for the dependent. Review CC IRPTR to verify income and/or type reported for dependent.

(5) Additional information regarding Personal Exemptions and Dependents can be found in Pub 501 and Pub 17, Your Federal Income Tax (For Individuals).

(6) When dependents are disallowed, consider all related credits.

(7) Special rule for children of divorced or separated parents:

The **custodial parent** is the parent having custody for the greater part of the calendar year; the **noncustodial parent** is the parent who is not the custodial parent.

(8) This rule also applies to parents who never married. A child will be treated as the QC of the noncustodial parent if all of the following applies:

- The child received over half of their support for the calendar year from the parents. In the case of the remarriage of a parent, support received from the parent's spouse shall be treated as received from the parent.
- The child is in the custody of one or both parents for more than half of the calendar year.
- The custodial parent completes and signs the Form 8332, Release/Revocation of Release of Claim to Exemption for Child by Custodial Parent, which provides that the custodial parent will not claim the child as a dependent for the taxable year in question, or for a number of years, which includes the taxable year in question. The custodial parent may, in lieu of the Form 8332, sign a similar statement containing the same information required by the Form 8332.

(9) The following tests must also be met:

<p>Citizen, National, or Resident Test: The taxpayer's dependent must be a U.S. citizen, national, or U.S. resident alien, or a resident of Canada or Mexico.</p>	<p>Verifying Information: Birth certificate, driver's license, school records, library card, green card, or INS documents</p>
<p>Support Test: Additionally, if the support of a child is not determined under a multiple support agreement and if all the following are met:</p> <ol style="list-style-type: none"> 1. The parents are divorced or legally separated under a decree of divorce or separate maintenance, or separated under a written separation agreement, or lived apart at all times during the last 6 months of the calendar year. 2. One or both parents provide 	<p>Verifying Information: Divorce or separation agreement. Form 2120, Multiple Support Declaration, if provided by taxpayer.</p> <p>The U.S. Tax Court issued a decision on the use of Form 8332, Release/Revocation of Release of Claim to Exemption for Child by Custodial Parent, in <i>King v. Commissioner</i> (121 TC 245), September 26, 2003. Under the ruling, the use of Form 8332 may also apply to never married parents of minor children, if they have lived apart at all times during the last 6 months of the calendar year. The Form 8332 was revised to delete all references to the requirement that the custodial and non-custodial parents must be or</p>

<p>more than half of the child's total support for the calendar year.</p> <p>3. One or both parents have custody of the child for more than half of the calendar year.</p> <p>4. The custodial parent releases a claim to an exemption for the child by a written declaration, as prescribed by the regulations, and the noncustodial parent attaches the release to his or her tax return.</p>	<p>have been married to each other before the special support tests apply.</p> <p>For Examination, if a signed Form 8332 is submitted during the audit, the non-custodial parent is treated as providing more than half the support for the year, and is entitled to the exemption if the other 4 dependency tests are met (relationship/member of Household, citizen, national, or resident, gross income; joint return) provided that one or both parents furnish over half of the child's total support for the year. This applies whether or not the parents of the child were ever married. This also means that under IRC 152(e)(1), the never married custodial parent living apart from the child's other parent is entitled to a presumption of greater than 50 percent of support on the same basis as the custodial parents who are divorced or legally separated under a written agreement.</p> <p>Please refer to IRM 4.19.15.11.2, Processing Taxpayer Replies, for additional guidance when evaluating Form 8332.</p>
then	
The noncustodial parent may claim the child as a dependent.	See above.
Note: For TY 2018 - 2025, the exemption amount allowed for individuals has been reduced to zero under Section 11041 of the Tax Cuts and Jobs Act.	

Additionally:

<p>A married filing joint status is allowed for taxpayer and their spouse if:</p> <p>Neither the taxpayer nor the taxpayer's spouse is a dependent of another taxpayer. See the Joint Return Test exception for Dependents in Publication 17, Your Federal Income Tax (For individuals).</p>	<p>Accepted proof of status:</p> <p>If the taxpayer is claimed as a dependent on another taxpayer's return, and the taxpayer says they should not be claimed on the other taxpayer's return but is self-supporting, taxpayer needs to provide documentation showing self-support. Some examples are: utility bills, rent or mortgage receipts, property tax bills. These items can be used as proof of self-support and residence.</p>
--	--

or	
If married filing joint,	Marriage certificate
or	
If the taxpayer is filing a separate return, the taxpayer may claim self (if above test is met).	NOTE: For TY 2018 - 2025, the exemption amount allowed for individuals has been reduced to zero based on Section 11041 of the Tax Cuts and Jobs Act of 2017.
or	
If the taxpayer's spouse died during the year and the taxpayer did not remarry by end of year, the taxpayer may use married filing joint filing status.	Death certificate and, if remarried, marriage certificate showing new marriage after last day of tax year.