

**2005
RULES FOR QUALIFYING CHILD
AND
QUALIFYING RELATIVE**

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November 15, 2005**

Uniform Definition of a Qualifying Child (UDC)

Beginning in 2005, one definition of a qualifying child will apply for each of the following five tax benefits.

Dependency exemption.

Head of household filing status.

Earned income credit (EIC).

Child tax credit.

Credit for child and dependent care expenses.

Tests To Meet

In general, all four of the following tests must be met to claim someone as a qualifying child.

Relationship test.

The child must be your child (including an adopted child, stepchild, or eligible foster child), brother, sister, stepbrother, stepsister, or a descendent of one of these relatives. An adopted child includes a child lawfully placed with you for legal adoption even if the adoption is not final.

An eligible foster child is any child who is placed with you by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

Residency test.

A child must live with you for more than half of the year. Temporary absences for special circumstances, such as for school, vacation, medical care, military service, or detention in a juvenile facility count as time lived at home. A child who was born or died during the year is considered to have lived with you for the entire year if your home was the child's home for the entire time he or she was alive during the year. Also, exceptions apply, in certain cases, for children of divorced or separated parents and parents of kidnapped children.

Age test.

A child must be under a certain age (depending on the tax benefit) to be your qualifying child.

Support test.

A child may not be self supporting.

Example: Jason who is 16 and earns \$5000 for the year pays 40% of his own support. The remainder of his support comes from his mother Shirley at 15% and Grandpa Joe at 45%. In the tax year 2004 Jason could not be claimed by either adult as a dependant, due to no person paid more than 50% of his support. In tax year 2005 due to the fact that Jason does not pay more than 50% of his own support he would be a qualifying child for either Shirley or Joe as long as the other three rules are met.

Dependency exemption, head of household filing status, and EIC.

For purposes of these tax benefits, a child must be under the age of 19 at the end of the year, or under age 24 at the end of 2005 if a student, or any age if permanently and totally disabled.

A student is any child who, during any 5 months of the year:

Was enrolled as a full-time student at a school, or

Took a full-time, on-farm training course given by a school or a state, county, or local government agency.

A school includes a technical, trade, or mechanical school. It does not include an on-the-job training course, correspondence school, or night school.

Exception.

For purposes of the EIC only, the Support test does not apply.

Example: Bruce and his son Carl share the same residence. Carl, who is 22 years old and is a full time student, owns his own computer programming business. Carl's net Schedule C income in 2005 is \$25000. Bruce earns \$14000 as a janitor. Carl qualifies Bruce for EITC because Carl meets the three rules (Age, residency, and relationship). Bruce would file his return as single claiming himself as an exemption and Carl for EITC as a qualified non dependent.

Child tax credit.

For purposes of the child tax credit, a child must be under the age of 17 at the end of the tax year.

Credit for child and dependent care expenses.

For purposes of the credit for child and dependent care expenses, a child must be under the age of 13 or any age if permanently and totally disabled.

Qualifying Child of More Than One Person

Sometimes a child meets the tests to be a qualifying child of more than one person.

However, only one person can treat that child as a qualifying child. If you and someone else (other than your spouse if filing jointly) have the same qualifying child, you and the other person(s) can decide who will claim the child. If you cannot agree on who will claim the child and more than one person files a return using the same child, the IRS may disallow one or more of the claims using the tie-breaker rule explained in Table 1, next.

Table 1. When More Than One Person Files a Return Claiming the Same Qualifying Child (Tie-Breaker Rule).

IF . . .	THEN the child will be treated as the qualifying child of the . . .
only one of the persons is the child's parent,	parent.
both persons are the child's parent,	parent with whom the child lived for the longer period of time. If the child lived with each parent for the same amount of time, then the child will be treated as the qualifying child of the parent with the highest adjusted gross income (AGI).
none of the persons are the child's parent,	person with the highest adjusted gross income.

Example: James and Cathy reside in the same household with their son Allen. They are not married, and have resided with each other all year. James's AGI is \$25,000 and Cathy's AGI is \$26,000. If both James and Cathy claimed Allen as their dependent the IRS would rule in favor of Cathy due to her higher AGI.

Dependency Exemption

To claim the dependency exemption for a qualifying child, all four tests listed earlier under Tests To Meet must be met. The child generally must also be a U.S. citizen, U.S. national, or a resident of the United States, Canada, or Mexico. An exception applies for certain adopted children. If married, he or she cannot file a joint return unless the return is filed only as a claim for refund and no tax liability would exist for either spouse if they had filed separate returns.

A person who used to qualify as your dependent but who is not your "qualifying child" may still qualify as your dependent as a "qualifying relative." To claim the dependency exemption for a qualifying relative, the child cannot be the qualifying child of any other person and all five dependency tests discussed under Dependency Tests in Publication 501 must be met.

Note: If you are a dependent of another person, you cannot claim any dependents on your return.

Head of Household Filing Status

In general, you can use head of household filing status only if, as of the end of the year, you were unmarried or "considered unmarried" and you paid over half the cost of keeping up a home, That was the main home for all the entire year of your parent whom you can claim as a dependent (your parent did not have to live with you), or

In which you lived for more than half of the year with either of the following:

Your qualifying child (defined earlier, but without regard to the exception for children of divorced or separated parents). But, if your qualifying child is married at the end of the year, see Married child below.

Any other person whom you can claim as a dependent.

But you cannot use head of household filing status for a person who is your dependent only because you are entitled to claim him or her as a dependent under a multiple support agreement. You cannot use head of household status any longer for a non dependant child who resides with you unless there is a divorce parent exception.

Example: In 2004 Mary was able to file as HH due to her daughter Stella age 34 lived with her all year. Even though Stella was not Mary's dependent, Mary paid more than 50% of the household's expenses. For the tax year 2005 Mary would be single.

Married child.

If your qualifying child is married at the end of the year, both of the following must apply for the child to be your qualifying child for purposes of head of household filing status.

The child cannot file a joint return unless the return is filed only as a claim for refund and no tax liability would exist for either spouse if they had filed separate returns.

The child must be a U.S. citizen, U.S. national, or a resident of the United States, Canada, or Mexico. An exception applies for certain adopted children.

Earned Income Credit (EIC)

You may be able to claim the earned income credit (EIC) in 2005 if you have:

2 or more qualifying children and your earned income is less than \$35,263 (\$37,263 if married filing jointly for 2005),

1 qualifying child and your earned income is less than \$31,030 (\$33,030 if married filing jointly for 2005), or no qualifying children and your earned income is less than \$11,750 (\$13,750 if married filing jointly for 2005). For purposes of the EIC, a qualifying child must meet the Relationship test, Residency test (without regard to the exception for children of divorced or separated parents), and Age test, earlier. A qualifying child does not have to meet the Support test for purposes of the EIC. But, if your qualifying child is married at the end of the year, see Married child next.

Married child.

A child who is married at the end of the year is a qualifying child for purposes of the EIC only if you can claim him or her as your dependent (see Dependency Exemption, earlier) or this child's other parent claims him or her as a dependent under the rules for children of divorced or separated parents in Publication 501, Exemptions, Standard Deduction, and Filing Information.

Child Tax Credit

You may be able to take the child tax credit if you have a qualifying child that meets all four of the tests listed earlier under Tests To Meet. For additional rules that you must meet, see Publication 972, Child Tax Credit.

Credit for Child and Dependent Care Expenses

Generally, a qualifying person for purposes of the credit for child and dependent care expenses is:

Your qualifying child (defined earlier, but without regard to the exception for parents of kidnapped children), or

Your dependent or spouse who is physically or mentally incapable of caring for himself or herself and who lived with you for more than half of the year.

For purposes of the credit for child and dependent care expenses, a qualifying child and dependent are determined without regard to the exception for children of divorced or separated parents and the child is treated as a qualifying person only for the custodial parent.

For additional rules that you must meet, see Publication 503, Child and Dependent Care Expenses. However, you no longer need to meet the Keeping Up a Home test discussed in Publication 503.

A Qualifying Relative

Qualifying relative is a new term that relates to dependency, head of household filing status, and child and dependent care credit.

Important to note that if a child could be claimed as a qualifying child of another taxpayer, that child cannot be anyone else's qualifying relative. This is true regardless of whether the eligible person claims the child or not.

Example: The father of a child age 4, lives with his girlfriend who is not the mother of his child. The father had no earned income. The girlfriend earned \$40,000. The child is the qualifying child of the father due to meeting the four tests. Therefore the child cannot be the qualifying relative of the girlfriend.

The rules for qualifying relatives includes the old rules for dependency.

Gross Income. A dependent's gross income must be less than the current year personal exemption amount.

Support. The taxpayer needs to provide more than half of the dependent's support. Multiple support agreements can still be used.

Member of household or relationship. With a qualifying relationship (close blood or law) does not need to be household member. If no qualifying relationship exists, the individual must have resided with the taxpayer all year

Citizenship. The qualifying person must be a US citizen, a US national, or a resident of the US, Mexico, or Canada.

Joint Return. A married child qualifies even if he or she files a joint return if certain conditions are met.